PRIZREN SOCIAL SCIENCE JOURNAL

VOLUME 4 · ISSUE 2 MAY - AUGUST, 2020

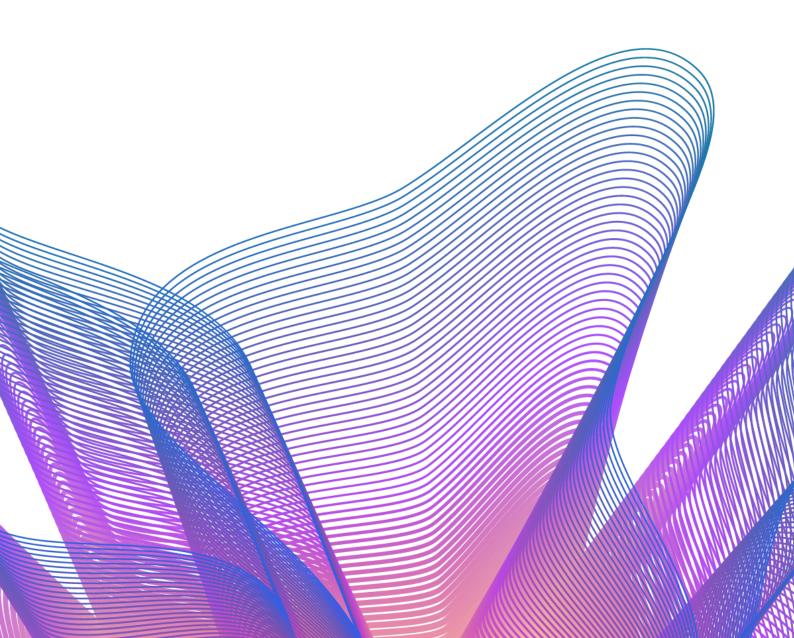
EDITOR IN CHIEF

LUAN VARDARI, PHD

CO-EDITOR

NAZLI TYFEKÇI, PHD

ISSN: 2616-387X DOI: 10.32936



ORGINAL RESEARCH ARTICLE

Page

01

DO OLDER INDONESIAN WITH CHRONIC DISEASE STILL BE ABLE TO ENGAGE IN AN ACTIVITY AND FEEL HAPPY?

by Santi SULANDARI, Afrilin DEWI PURNAMA, Mei WIJAYANTI, Fitriana DWI HASTUTI, Permata ASHFI RAIHANA

14

GRATITUDE, SELF-ESTEEM, AND OPTIMISM IN PEOPLE WITH PHYSICAL DISABILITIES

by Rini LESTARI, Maharani FAJAR

22

VICTIM IDENTIFICATION, FRAMING HEURISTIC AND STRESS EFFECTS ON THE DONATION DECISION

by Nihan TOMRİS KÜÇÜN, Sezen GÜNGÖR

30

EFFECTS OF EMPLOYEE MOTIVATION ON ORGANIZATIONAL PERFORMANCE AT ETHIOPIAN TELECOM SOUTH WEST REGION JIMMA

by Wolde SHIFERAW DUBAGUS, Eminent NEGASH, Aregu ASMARE HAILU, Shimekit KELKAY ESHETE

41

FOREIGN LANGUAGE LEARNING ANXIETY AMONG LOW INTERMEDIATE LEVEL EFL STUDENTS: A COMPARISON OF THE ANXIETY LEVELS OF STUDENTS ATTENDING THREE DIFFERENT TURKISH STATE UNIVERSITIES

by Esen SPAHL KOVAC

Page

49

CHILD REFUGEES IN EUROPE

by Seda YAZGAN HADZIBULIC

55

FORMULATIVE POLICY OF DEATH PENALTY FOR CORRUPTORS IN INDONESIA

by Ni Wayan SINARYATI, I Gede ARTHA

70

WHY ARE CERTAIN STUDENTS FURTHER FROM ACHIEVING THEIR DESIRED LEVEL OF ENGLISH PROFICIENCY?

by Fëllanza CANOLLI MALLET

74

LEGAL STATUS OF FLAT UNIT OWNERSHIP CERTIFICATE (STRATA TITLE) IN INDONESIA

by I Made Herman SUSANTO, Ibrahim R.

78

CRIMINAL POLICY IN THE MANAGEMENT OF ROAD TRAFFIC ACCIDENTS

Yulius Harya PAMUNGKAS, Moch. BAKRI, Prija DJATMIKA, Rachmad SAFA'AT

Page

84

URGENCY OF THE PUBLIC SERVICES SUPERVISION ON THE REGIONAL GOVERNMENT IMPLEMENTATION

by Ida Ayu KETUT KARYANI, I Wayan PARSA

89

SOME CRIMINOGENIC FACTORS AFFECTING THE APPEARANCE OF CORRUPTION IN KOSOVO by Agnesa BEKA

93

LEGAL RESPONSIBILITY FOR THE OFFENSES COMMITTED THROUGH THE MEDIA IN KOSOVO

by Laura TAHIRI, Milot KRASNIQI

99

THE REFORM OF PUBLIC ADMINISTRATION IN KOSOVO

by Milot KRASNIQI, Laura TAHIRI, Azem KOLLONI

103

THE IMPORTANCE OF ORAL LANGUAGE PROFICIENCY IN EFL ONLINE TEACHING SETTING

by Flora AMITI

Editor in Chief

Prof. Ass. Dr. Luan VARDARI,
PRIZREN "UKSHIN HOTI" UNIVERSITY

co-Editor in Chief & Language Editor

Dr. Sc. Nazli TYFEKQI,
GJAKOVA "FEHMI AGANI" UNIVERSITY

Editorial Board President

Prof. Dr. Engin DEMIREL, Trakya University, TURKEY

Associate Editors

Prof. Dr. Hasan ARSLAN, Çanakkale 18 Mart University, TURKEY

Prof. Dr. Mustafa ÖZBILGIN,
Brunel
University, UNITED KINGDOM

Prof. Assoc. Atour TAGHIPOUR, Le Havre University, FRANCE

Prof. Assoc. Isa BLUMI, Stockholm University, SWEDEN

Prof. Assoc. Jean Martin CALDIERON, Florida Atlantic University, USA

Prof. Ass. Christian Ruggiero,
Sapienza University Di Roma, ITALY

Prof. Ass. Berk ARAPI,
Istanbul University, TURKEY

Prof. Dr. Aytekin IŞMAN, Sakarya University, TURKEY

Prof. Dr. Asllan HAMITI,
St.Cyril and Methodius University, MACEDONIA

Prof. Dr. Charlie REIGELUTH, Indiana University Bloomington, USA

> Prof. Dr. Fujio YAMAGUCHİ, Meiji University, JAPAN

Prof. Dr. Kiymet CALIYURT TUNCA, Trakya University, TURKEY

Prof. Dr. John FİEN, Swinburne University, AUSTRALIA

Prof. Dr. Mehmet ÇAGLAR, European University of Lefke, Northern Cyprus

Prof. Dr. Marina DABIČ,
Nottingham Trent University, UNITED KINGDOM

Prof. Dr. Mohamed AROURI,
Nice Sophia Antipolis University, FRANCE

Prof. Dr. Rame VATAJ,
Prishtina University, KOSOVA

Prof. Dr. Veldin OVČINA,

Džemal Bijedič Mostar University, BOSNA AND

HERZEGOVINA

Prof. Assoc. Ali Rıza TERZİ, Balıkesir University, TURKEY

Prof. Assoc. Aysel GÜNDOĞDU, Medipol University, TURKEY

Prof. Assoc. Erdoğan TEZCİ, Balıkesir University, TURKEY

Prof. Assoc. Ismet TEMAJ,
Prizren "UKSHIN HOTI" University, KOSOVA

Prof. Assoc. Kamber KAMBERI, University of Gjakova "Fehmi Agani", KOSOVA

Prof. Assoc. Mehmet Ali IÇBAY, Çanakkale 18 Mart University, TURKEY

Prof. Assoc. Nalan KIZILTAN, Ondokuz Mayis University, TURKEY

Prof. Assoc. Samedin KRABAJ,
Prizren "UKSHIN HOTI" University, KOSOVA

Prof. Assoc. Suzan CANHASİ, Prishtina University, KOSOVA

Prof. Assoc. Tahir MASOOD, American University in the Emirates, UAE

> Prof. Asst. Elif ÜLKER-DEMIREL, Trakya University, TURKEY

Prof. Asst. Elsev Brina LOPAR, Prizren University, KOSOVA

Prof. Asst. Eva TAFİLİ, Tiran University, ALBANIA

Prof. Ass, Fatma CESUR, Trakya University, TURKEY

Prof. Asst. Armend PODVORICA,
Prizren "UKSHIN HOTI" University, KOSOVA

Prof. Asst. Halim BAJRAKTARİ,
Prizren "UKSHIN HOTI" University, KOSOVA

Prof. Asst. İsuf LUSHİ,
Prizren "UKSHIN HOTI" University, KOSOVA

Prof. Asst. Khalid Khan, Bahria University, PAKISTAN

Prof. Asst. Mario KOPLJAR,
Josip Juraj Strossmajer University of Osijek,
Croatia

Prof. Asst. Nuran MUHAXERİ, Prishtina University, KOSOVA

Prof. Asst. Rrezarta GASHI, AAB College, KOSOVA

Prof. Asst. Serpil KESTANE, Dokuz Eylül University, TURKEY

Prof. Asst. Vincent SHIH, University of Wisconsin-Madison, USA

Dr. Sc. Ahmet MLOUK, Staffordshire University, United Kingdom

Dr. Sc. Afërdita QEKAJ THAQI, Kosovo Academy for Public Safety, KOSOVA

> Dr. Sc. Ebru YENIMAN, Uludag University, TURKEY

Dr. Sc. Endri RACO, Tirana Polytechnic University, ALBANIA

Dr. Sc. Evis GARUNJA, University "Aleskandër Moisiu", ALBANIA

> Dr. Sc. Harun SERPIL, Anadolu University, TURKEY

Dr. Sc. Lalit GARG, University of Malta, MALTA

Dr. Sc. Ozkan SARISOY,
Tekirdag Namik Kemal University, TURKEY

PRIZREN SOCIAL SCIENCE JOURNAL

DO OLDER INDONESIAN WITH CHRONIC DISEASE STILL BE ABLE TO ENGAGE IN AN ACTIVITY AND FEEL HAPPY?



Santi SULANDARI, S.Psi., M. Ger. 10 1*
Afrilin DEWI PURNAMA, S. Psi 10 2
Mei WIJAYANTI, S. Psi. 10 3

Fitriana DWI HASTUTI, S. Psi. 60 4

Permata ASHFI RAIHANA, S. Psi., MA. 65

- 1 University of Muhammadiyah Surakarta, Faculty of Psychology, ss280@ums.ac.id, *Correspondent Author.
- 2 University of Muhammadiyah Surakarta, Faculty of Psychology, afrilpipin@gmail.com
- 3 University of Muhammadiyah Surakarta, Faculty of Psychology, meiwijayanti285@gmail.com
- 4 University of Muhammadiyah Surakarta, Faculty of Psychology, fitrianadh14@gmail.com
- 5 University of Muhammadiyah Surakarta, Faculty of Psychology, par192@ums.ac.id

Article history:

Accepted 05 April 2020 Available online 31 August 2020

Keywords:

Activity,

Chronic Disease,

Health.

Happiness,

Older People.

Abstract

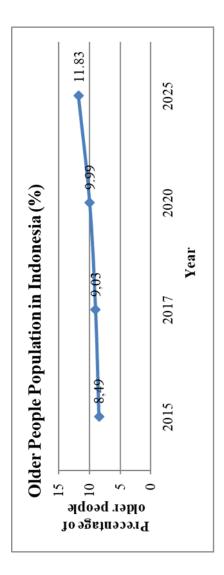
This study aimed to understand what activities could be done by older Indonesian who are physically sick and how those activities can make them feel happy. It was a qualitative study conducted in the Surakarta, Central Java, Indonesia. A total of 6 older people aged >60 years and suffering from the chronic disease were selected for this study. The data were collected by an in-depth interview. The data were analyzed using thematic analysis with the help of the NVivo 12 QSR program. Older people with chronic disease were still able to be active in worship, socializing with the surrounding environment, working, doing the daily chores, and doing older people gymnastic. The benefit of staying engaged in the activity, including the ability to feel happy, be motivated to get a reward, exchange ideas, and share experience, help others, be calm, and have good health. This study emphasized the importance of being engaged in activities for older people to achieve happiness even though there had poor health status.

1. Introduction

Old age is a period that will be passed by anyone, especially for those who are given a long life by God. There are positive and negative things when an individual enters old age. The older people experienced a setback in several things both physically (hearing, vision, wrinkled skin, etc.); cognitive (easy to forget, etc.); or psychological (loneliness, stress, anxiety, fear of death, etc.) (Suardiman, 2011). In addition to experiencing setbacks, the elderly can also be wiser and more sensible in responding to a matter. It is because previous experience has made the elderly more socially mature (advising younger people), emotions (calm in facing certain situations), and cognitive (wiser in making decisions).

The growth of the older people population cannot be avoided. Based on population projection data quoted from the Indonesian Ministry of Health and Ministry's page and Information [Kemenkes RI] (2017), it showed the number of older people experienced a significant increase. In accordance with chart 1, in 2017, there were around 9.03% of the total older people of the total population in Indonesia. This number increased from the previous two years 2015 data of 8.49%. The Indonesian Ministry of Health also predicts that by 2020 the number will still increase to 9.99% and will increase to 11.83% in 2025.

Figure 1. Increase in the Older People Population in Indonesia in 2010-2030



The older people population that experiences growth every year makes one of the causes of the emergence of various problems in the older people. According to Suardiman (2011) states that some problems arise when someone enters old age, including economic problems (reduced income due to retirement), social and cultural problems (lack attention, depressed, lonely), health problems (deterioration of bodily functions). These problems can make the older people vulnerable to various diseases, as well as psychological problems (loneliness, feelings of uselessness, helplessness, lack of confidence, dependence, post power syndrome, and so on).

One of the problems felt by the older people is related to health. As a person ages, it raises various complaints about health. Based on BPS data, it is stated that as people age, they are more susceptible to complaints and illness, indicated by data of 48.39% of the population of young older people (60-69 years), middle-

aged people (70-79 years) amounting to 57.65%, and older people (80-89 years) of 64.01% who complained about their health condition. In addition, based on data in the 2014 older people Population Statistics regarding morbidity rates experienced by the older people in 2014, there was 25.05%, which means that around one in four older people had experienced illness in the past month (Badan Pusat Statistik [BPS], 2014).

Furthermore, according to Siti Setiati as chairman of the Indonesian Medical Gerontology Association, it is stated that in old age, various diseases attack, especially non-communicable (PTM) and chronic diseases, such as the brain, heart, blood vessels, chronic lung disease, and cancer. Older people health problems are generally multi-disease, so they require long-term care (Paramitha & Puspitasari, 2016). Aging causes the quality of the health status of the older people in Indonesia to decline. According to Badan Pusat Statistik [BPS] (2014), the older people are very vulnerable to low health status. The results of basic health research (Riset Kesehatan Dasar [Riskesdas], 2018) showed an increasing number of non-communicable diseases experienced by the older people. Delivered by Siswanto as Head of the Health Research and Development Agency, it is stated that the prevalence increased from 2013 to 2018. Cancer increased by 0.4%, stroke increased by 2.9%, chronic kidney disease increased by 1.8%, diabetes mellitus increased by 1.6%, and blood pressure and hypertension increased by 8.3%.

Health complaints experienced by the older people can disrupt daily activities. Complaints experienced by the older people affect the psychological and physical conditions experienced by them. Furthermore, according to Bestari and Wati (2016) and Steptoe, Deaton, and Stone (2014) stated that, health status is very influential on the happiness of elderly individuals. It is confirmed by the findings from Lobos, Lapo, and Schnettler (2016), which mentioned that health status is one crucial factor in happiness. Findings from Amalia (2017) also noted that the perception of the older people in looking at health affects the level of happiness as much as 8.1%, meaning that the more positive the perception level of the older people in looking at health, the more influential it is on the level of happiness they felt.

In addition, according to Indriana, Kristiana, Sonda, and Intanirian (2010) and Suardiman (2011), it is stated that complaints/disturbances to health can prevent the older people from carrying out their daily activities while also being able to cause stress to the older people. Several factors cause stress experienced by the older people; one of them is a change in self-role caused by the inability to perform daily activities optimally. The results of the study (Nuryanti, Indarwati, & Hadisuyatmana, 2019) showed that changes in the role of the self-experienced by

the older people causes anxiety to experience depression. Furthermore, the findings from Parasari and Lestari (2015) indicated that depression in the older people is characterized by a lack of interest in doing activities, fatigue, lack of confidence, to experiencing difficulties in social activities, different from happy older people, who will be more active in social activities.

Older people, who enter old age with various problems at the end of their lives, especially health problems, are expected to be able to have happiness because happiness is a component in life satisfaction (Nemati & Maralani, 2016). Individuals, especially the older people, have the right to be happy in any condition. Happiness becomes an essential thing for the older people because the older people who experience various declines or setbacks need to adjust to these conditions. Health is one of the factors that influence happiness. However, not all sick older people are not happy because other factors can make older people who are sick still feel happy through their old age.

Research results (Indriana et al., 2010; Nuryanti et al., 2019; Parasari & Lestari, 2015; Suardiman, 2011) are not in accordance with the results of an initial survey conducted by researchers in which 91% of 94 respondents who had health complaints or had chronic illnesses showed that they considered their lives to be very valuable and were satisfied with the lives they lead despite being sick. Furthermore, the initial interview conducted by researchers to the older people with the initials HS, male, and 63 years old.

The informant could not carry out normal daily activities because he had diabetes, so he only carried out activities on a bed and wheelchair if he wanted to do outside activities. He stated that despite experiencing limitations due to illness, the informant did not feel sad or sorry. The informant revealed that he felt calm and happy by using their time to carry out worship (religious activities) even in bed. In addition, the older people also still felt comfortable with a family that always supports him.

It appears from the interview results that the state of illness experienced by the older people did not reduce the level of happiness. Happiness in the older people can be influenced by factors other than health. According to Erlangga (2012), happy older people are older people who can positively evaluate themselves in controlling situations or essential problems in a balanced way in life. The positive assessment conducted by the older people is one of them by doing worship. Then, Mayasari (2014) revealed that the level of religiosity embraced provides happiness that is more directed to a meaningful life that is not just positive or negative feelings but rather leads to independence, great expectations, to optimally utilize the potential within themselves. Likewise, the results of research by Sulandari,

Wijayanti, and Sari (2017) emphasized that worship or religious activities regularly can bring happiness to the elderly. It is supported by Bixter (2015) who conducted research on religious effects, and it is obtained the results that religious factors have a greater effect on one's happiness compared to other factors. Another factor that also affects the happiness of the elderly is family support. Family social support can also improve health and well-being in the elderly (Dharma, 2014; Ikasi & Hasanah, 2014). Furthermore, Mastuti and Sulandari (2016) stated that family support contributes more than 50% of the happiness of the elderly. Demir, Jaafar, Bilyk, & Mohd Ariff (2012) pointed out that happiness is closely related to close relationships with other people. The quality of the relationship is more important in influencing one's happiness than the amount or quantity of the relationship itself.

Based on the background above, the researchers aim to describe what the elderly can still do even in the illness condition and how these activities can bring happiness to them.

2. Literature Review

2.1. Happiness

Happiness, in its definition, is the subjective experience in an individual that includes a positive component, which is characterized by the satisfaction in life that reflects the welfare of an individual as a whole. According to (Selingman, 2013), the concept of happiness is that an individual is sure of what is chosen. Happiness is the fulfillment of a need and hope. Happiness is the same as life satisfaction. Diener (2009) argues that in happiness, there are two components, namely the cognitive component and the affective component. The cognitive component is the result of evaluation in life events, which includes hope, while the affective component is a feeling, which contains the meaning of peace, the absence of feeling depressed to live satisfaction. Happy individuals are individuals who have no psychological problems. When an individual experiences psychological pressure, it positively affects their health and perceived happiness.

Happiness is a component of well-being that reflects feelings and satisfaction for oneself, especially happiness reflects the quality of social relationships (Diener, Ng, Harter, & Arora, 2010; Inglehart, Foa, Peterson, & Welzel, 2008). According to (Lu & Gilmour, 2004; Putri, 2018), it is said that happiness is characterized as follows; be physically free from illness, suffering, live a peaceful, peaceful life, free from feelings of worry or fear, live more pleasant, and be accepted by the community, not isolated, able to maintain and have normal social relations until good relationship in the midst of society. Sources of happiness in the elderly can be obtained from various sources,

such as social support, economic level, religiosity, to good relationships in the environment. Further, the findings from (Chei, Lee, Ma, & Malhotra, 2018) shows that perceived happiness can reduce mortality rates that occur in the elderly.

As the concept of happiness, experts (Valois, Zullig, Huebner, & Drane, 2004; Zhao & Wu, 2018), stated that happy older people are characterized by happy feelings, able to receive and interpret information correctly without affecting feelings of happiness, and optimism and have good social relations with others to achieve the required social support.

2.2. Older People

The older people are the end of period in a person's life span. This period starts at the age of 60 years until the end of one's life cycle or until the end of life (Jahja, 2011). According to Government Regulation of the Republic of Indonesia (PP RI) Number 43 of 2004 concerning Implementation of Efforts to Increase Social Welfare Elderly, it states that an older person is someone who has reached the age of 60 (sixty) years and above.

The older people's population continues to increase. Followed from the (World Health Organization [WHO], 2018), in 2015 to 2050, the number of older people is estimated to increase by 22% from the previous number of 12%, while in 2050, the number of older people will increase, especially in developing countries, as much as 80%. Increasing the number of older people in the world will undoubtedly affect the burden on each country. The health threat is one of the problems experienced by the older people, while changes in lifestyle and changing daily activities are a result of aging. The reduced biological and physical functions experienced by the older people make the older people vulnerable to disease.

Changes in the older people can be seen from changes in physical function. Many changes occur in the older people, including changes in body composition, muscles, bones and joints, cardiovascular system, and respiration. Bones, joints, and muscles are interrelated if the joint cannot be moved in accordance with the Range of Motion (ROM), then the movement becomes limited (Ambardini, 2009).

In addition, several changes occur in the older people (Riyanto, 2014), namely: 1. Changes in physical function, including changes from the cellular level to all organ systems, such as the respiratory, hearing, vision, cardiovascular, body temperature regulation systems, and respiration systems. 2. Changes in cognitive function; among the brain functions that decrease gradually with increasing age is the memory function in the form of a setback in naming and the speed of searching for information

that has been stored in the memory center. The ability to send information from short-term memory to long-term memory deteriorates with increasing age.

2.3. Chronic Disease

Prevalence shows that more diseases that attack the older people are non-communicable diseases, such as diabetes, heart disease, and cancer (World Health Organization [WHO], 2011). Chronic illness is a disease that is often experienced by the older people. The results of the studies (Flynn, Markofski, & Carrillo, 2019; Kraja et al., 2016; Shishido & Sasaki, 2020) noted that health threats are one of the problems experienced by the older people as a result of increasing age, changes in lifestyle, and daily activities so that they are susceptible to chronic diseases. Cai, Zhang, Zhao, and Coyte (2018) and Cockerham, Hamby, and Oates (2017) argued that chronic diseases themselves include cancer, cardiovascular, diabetes, lung, stroke, and hypertension. Furthermore, Prince et al., (2014) mentioned that cardiovascular disease accounts for as much as 30.3%, respiratory disease as much as 9.5%, and musculoskeletal disorders as much as 7.5%. More specifically, in Indonesia's data (Pusat Data dan Informasi Kementrian Kesehatan RI [Kemenkes], 2013) found that health problems experienced by the older people, such as gout, high blood pressure, rheumatism, low blood pressure, and diabetes, as much as 32.99% were followed by other diseases, such as runny nose (11.75) and cough (17.81%).

2.4. Previous Research Related To Older People and Chronic Disease

Health problems for the older people affect the level of life satisfaction at the end of the older people's life. Research result (Steptoe et al., 2014) showed that health status is closely related to age so that subjective well-being, such as hedonism feelings (feelings of anger, sadness, happiness, stress, and illness) and eudemonic well-being (the meaning of life), is disturbed.

Chronic illness affects the physical and psychological condition of the older people. Findings from Lotfaliany et al., (2018) mentioned that depression was found in 6.0% of cases, 95% diabetes, 2.14% arthritis, and asthma 3.14%. Furthermore, the results of (Bestari & Wati, 2016) showed that older people, who have more than one chronic disease, have a three times greater risk of feeling anxious. It seems clear that the older people, who experience chronic diseases, indirectly cause feelings of anxiety and depression, so that it will affect the level of happiness of the older people. Findings from (Chei et al., 2018) indicated that perceived happiness can reduce mortality that occurs in the older people. Happiness comes from various sources. The findings of (Sujarwoto, Tampubolon, & Pierewan, 2018) found that older people would be happier and more satisfied in living life in an

adequate economic position; good service is different in the older people who live in conflict regions, the existence of violence makes the level of happiness decreases, and life satisfaction is low. The results of the previous studies (Hori & Kamo, 2018; Rey, Extremera, & Sanchez-Alvarez, 2019) showed that social support received by older people from friends can increase happiness, especially women, because it contributes positively to emotional well-being and is used in passing through each event life. Social support is in the form of information, advice, to the financial. Meanwhile, other findings (Siqueira, Fernandes, & Moreira-Almeida, 2019; Vishkin, Bigman, & Tamir, 2014; You & Lim, 2018) noted that religious influence in regulating emotions and happiness so that the higher the level of religiosity the higher the level of happiness felt. Furthermore, other research results (Chopik & O'Brien, 2017; Jeon et al., 2016; Lestari, 2017; Richards et al., 2015) stressed that apart from harmonious relationships, a stable economic level is equally important as health, which exerts an influence on happiness older people; it is because, with a healthy state, the older people will increase their physical activities, such as running a hobby, having fun, exercising to socializing.

2.5. Research Question

Based on the problems that have been described, the researchers proposed questions, including whether in the sick condition, the older people are still able to feel happy or not, and how they feel the happiness.

Table 1. Informant Characteristic

No.	Informant	Age	Gender	Type of chronic diseases
1	Informant 1 (I1)	70 years old	Male	Diabetes and heart disease
2	Informant 2 (I2)	68 years old	Female	Diabetes
3	Informant 3 (I3)	76 years old	Male	Stroke and high blood pressure
4	Informant 4 (I4)	85 years old	Male	Diabetes
5	Informant 5 (I5)	62 years old	Female	Diabetes
6	Informant(I6)	65 years old	Male	Stroke

3.3. Data Collection

The research method used semi-structured interviews, utilizing interview guides. Interview guides that would be used are listed in table 2.

The language used in the interview process was Indonesian and/or Javanese. The choice of language was adjusted to the desires and language skills of the informants.

Table 2. Interview Questions

No	Questions			
1.	(What are your current activities?)			
2.	(What are the benefits of these activities for you?)			
	a. (How have you been feeling lately?)			
	b. (What have you been thinking lately?)			

3.4. Research Procedure

The following were the steps taken by the researcher in conducting this research, including the researcher who understood the situation and conditions in the field, took care of permission to informants with the time and place agreed upon together, and took data with an interview duration of \pm 30-60 minutes per informant. Researchers conducted interviews back to several informants when the data was felt to be lacking, and the

3. Method

3.1. Study Design

This study used a qualitative approach. An in-depth interview was used to collect the data. The researcher used a semi-structured interview. A guided interview was prepared to help the researcher obtaining data.

This research involved six older people. The researcher visited the informant's house directly while asking for permission to conduct an interview. The interview was conducted at the informant's house. This study was conducted in Surakarta Residency, Central Java, Indonesia.

3.2. Informants

The informant in this study was selected using purposive sampling. The informant criteria included: older people aged ≥ 60 years who were in the Surakarta Residency, Central Java, and had health problems.

Six older people who were suffering from the chronic disease were chosen to participate in this study. Chronic diseases included stroke, diabetes mellitus, heart disease, and arthritis hypertension. The informants consisted of four men and two women with Muslim and Christian religious backgrounds.

researchers would check the data to informants in order to validate the data.

3.5. Data Analysis

Data obtained from the results of the interview were then transcribed. This transcript was then analyzed using thematic analysis techniques, assisted by the NVivo12 QSR program. The researcher did the coding and then categorizing the theme, according to the purpose of the study. In purpose of publication, the related transcripts were provided in English.

3.6. Research Ethics

Study ethic included informed consent given, and it was filled out by study informants. This research had been granted permission from the Faculty of Psychology.

4. Result

The results of this study are classified into several sub-sections, including 1. Activities that can still be done by the older people who are sick; and 2. The benefits of conducting these activities.

4.1. Activity

Despite having health problems, research informants continue to do daily activities. Activities done by informants include: Worshiping, socializing with the surrounding environment, working, doing the daily course, and having a gym for the older people.

4.1.1. Worshiping

Worshiping is the most activity conducted by informants. Informants 2, 3, 4, 5, and 6 stated that praying, being grateful, fasting, reading the Qur'an, and joining the recitation were still actively done. Especially for informants 4, 5, and 6, they did the evening prayer in the mosque. Informant 3 stated that praying is done at any time without knowing the time, while the informant 2 stated the form of gratitude is to thank God so that he can get up and do the activities again.

[I usually] thanks to Allah, who always protects me while I am taking a rest or waking up.... [12]

As a Muslim, I need to pray all the time. There is no particular time to pray [I can do any every time]. [I3]

[I usually] come to a Mosque for praying. [I4]

I pray in Mosque every night. [I5]

I am grateful I am still able to go to the Mosque for praying. [I6]

4.1.2. Socializing with the Surrounding Environment

The information above shows that socializing is done for informants 1, 2, 3, 4, and 6. The socializing forms consisted of gathering with children, talking with friends about the relationship, attending the marriage, and helping neighbors who have an event.

Informant 2 and 3 states that they gathered with neighbors in spare time and take part in the conversation. However, it was different from the informant 4, who states that he had no experience in chatting so that he only became a listener when gathering with neighbors or with family.

I have children ... we spend time together every Sunday. [I1] We meet and have a chat frequently with neighbors on any occasion, such as community meetings. [12]

If I would like to have a chat with neighbors, I would come to them. [13]

I go to my neighbor's house when there are community meetings.
[16]

4.1.3. Working

Working was an activity chosen by informants 2, 4, and 6. The works done by older people are to go to the rice fields, fields, and even catfish farming. From what was conveyed to the informant 4, he took part in processing the rice fields. Furthermore, informant 6 stated that he was not only going to the fields but also planting rhizome, spices, and even farming catfish.

[I usually] go to the rice field for working. [12]

My main activity is only going to the rice field [for working]. [14] I am still able to take a walk and still work ing in the rice field regularly ... lately, I also selling spices ... and I grow catfishes in my pond. [16]

4.1.4. Doing the Daily Chores

Information was given by informants 2, 3, 4, and 5 that they did the daily chores such as sweeping, cleaning the garden, and cooking when they were at home. Meanwhile, informant 4 said about the activities that should be done by her were cleaning the garden, pulling out the grass and collecting firewood for cooking.

[I usually] clean my house ... boiling water for my husband. [12] [The activity that I regularly do] sweeping at home. [13] [I] cleaning my field, collecting woods when I clean wild grass. [14]

I work as a traditional chef [foods are as requested]. [I5]

4.1.5. Joining Older People Gymnastics

Informant 6 actively took part in a fitness exercise that is held on every Saturday morning. It is done routinely of personal desires.

[1] Joining an older people community for doing gym every Saturday ... that is my weekly regular activity ... [besides] engaging in other events run by the community. [16]

4.2. The Benefit of Staying Active

Conducting daily activities provides benefits to the informants. Benefits obtained by the informants include: feeling happy, gaining motivation to get merit, exchanging ideas and sharing experiences, helping others, being calm, and maintaining health.

4.2.1. Feeling Happy

Based on information conveyed by informants 2, 3, 4, and 6, who stated that having activities makes the mind more relax because it can be shared with others. One of the aims in conducting activities for older people was to seek entertainment. It seemed that the activities carried out can make older people feel happy. Although these activities were limited to go to the garden and clean the garden from fallen leaves, it indirectly affected the condition of the older people. Older people felt happier than just sleep. Further, taking a rest even made their situation worse. Some informants reflected:

I am excited . [I2]

Almost every day I am doing my activities as an entertainment and it makes me happy. [13]

It is entertaining [makes me happy]. Even I am sick but if I can walk around, I would prefer to do it. I also happy to clean up my field from dried leaves. I do it [activity] as far as I am able to do so. [14]

I am happy [doing my daily acivities]. [I6]

4.2.2. Maintaining Health

Based on the information obtained, it shows that the benefit obtained from activities carried out by older people is to maintain health. It is supported by the statement of the informant 3 that the activities carried out can smooth blood circulation.

Yes [doing the activities] mainly for body movement so the blood will circulate smoothly. As well as reducing the sitting period, then the sleeping hours also need to be controlled and any other things. [13]

If I am doing nothing, my body feel not good. [I4]

4.2.3. Being Motivated to Get Reward

Another benefit that was felt by the older people towards conducting activities was getting merit. It was conveyed by the informant 4 who stated that praying was a provision for the Hereafter. Praying at the mosque could bring more friends and more merit than praying at home. Furthermore, the informant 4 also said that fasting has many merits.

Praying at the Mosque is better that do it at home. Like fasting, if we do not do fasting, we only get ten merits, but if we do fasting, we will receive 700 merits. I do fasting as long as I can. The merits are many. [I4]

4.2.4. Exchanging Ideas and Sharing Experiences

The benefit of activities undertaken by older people is exchanging ideas and experiences. It is supported by the statement of the informant 4 that activities carried out with friends was felt more comfortable and can be a place to exchange ideas and experiences because of different ages and knowledge.

I prefer to go to my neighbor's house to share ideas or experiences with friends. The conversation topic between the older and the younger is different. The youths are smart, the older like me did not go to school like the young people nowadays. [14]

4.2.5. Helping Others

Associated with the benefits of activities carried out by the older people, it was obtained that conducting activities can help others. It is supported by the statement of the informant 4 that collecting firewood can help her husband to fulfill their daily needs. Additionally, she stressed that one of her daily activities is providing morning beverage for her husband.

[I am] Working as I desire to do it, the most important one is I still able to do it, collecting woods [to help her husband fulfill their daily needs]. Every early morning, [I] boiling water to serve a hot drink for my husband. [I4]

4.2.6. Settling Down

Based on the information that has been found that the benefits of activity, such as worshiping, undertaken by older people can make older people feel calm. It is supported by the statement of the informant 2 that the activities carried out can make calm feelings because everything that is left to God and flows as it is. So we can live in a peaceful mind if we can let everything happened [through worshiping] since it is from God. All will be good and relaxing and flows as it is. [I2]

5. Discussion

This discussion will explain the results of the research data that have been done. The following discussion is about the results of the above data:

Physical activity is not always related to sports but can be in the form of activities carried out daily, such as: walking and doing housework (Taylor, 2014). Related to activities, the majority of the older people in this study did not make health problems as a barrier to remaining active in carrying out daily/physical activities. informants are still involved in activities such as: Worshiping, socializing with the surrounding environment, working, doing the daily course, older people exercise.

(World Health Organization [WHO], 2010) emphasized that carrying out physical activity actively can provide several benefits for the body, especially in older people. Current research found that older people who have health problems but remain active in physical activity will get benefits such as feeling happy, gaining motivation to get merit, exchanging ideas and sharing experiences, helping others, being calm, and maintaining health. It appears that physical activity is undertaken by older people indirectly affects their mental health. It is supported by the results of research (Kim, Chun, Heo, Lee, & Han, 2016) who revealed that utilizing spare time to do activities will obtain good benefits such as creating positive emotions, i.e., life satisfaction and wellbeing. Further research results(Lera-Lopez, Ollo-Lopez, & Santos, 2017; Pertiwi, 2017; Pool, Sadeghi, Majlessi, & Foroushani, 2014) claimed that physical activity is positively related to happiness.

The results of the study (Kim, Lee, Chun, Han, & Heo, 2016) found that utilizing spare time to do physical activities can bring psychological benefits such as optimism, life satisfaction, and well-being. It is in line with this finding that the older people who did activities during the spare time, such as going to the rice fields, planting, and doing older people exercises every Saturday showed a feeling of pleasure. It was stated by Boylu, Ayfer, Gunay, & Gulay (2017) that life satisfaction has a positive impact on the quality of life of older people, so it appears from the findings of this study that the activities carried out by the older people in their spare time are merely to avoid feeling bored, especially for the health of the older people to reduce pain and relaxes muscles.

Souza, Carvalho, & Ferreira, (2018) stated that the results of a systematic review show that physical activity is essential, not only for older people but also for individuals who have certain diseases, such as parkinsonism, cancer, osteoporosis, rheumatoid arthritis, obesity, depression, etc. Furthermore, (Soraki &

Abolghasemi, 2016) added that there is a positive correlation between happiness and health with life expectancy in patients suffering from chronic diseases (cancer).

According to Hongu, Gallaway, and Shimada (2015) there are five benefits of physical activity for the older people, namely: increasing the chance of living longer, reducing the risk of type 2 diabetes and metabolic syndrome, improving the quality of life, promoting social interaction, and improving brain health. (Francis, 2014) wrote a literature review article related to physical activities. The results of some of the literature reviews indicate that physical activity can prevent various diseases, and the risks of health problems, improve social well being and increase psychological well-being.

One of the interesting findings from this research is related to the activity of "socializing with the surrounding environment" that, in fact, can help informants to interpret a happier life. Socializing with others involves physical activity because informants visit relatives or neighbors. Moreover, more activities are carried out when they are socializing. Forms of social activities include talking with neighbors, coming to weddings, and mourning. The finding from Hsu and Chang (2015) revealed that happiness is not limited to the interaction but rather the involvement between others and the social support received.

Other studies (Didino et al., 2017; Kapikiran, 2016; Moeini, Barati, Farhadian, & Ara, 2018) mentioned that social support in the form of information, judgment, and emotional support received by the older people can positively increase happiness and life satisfaction of older people. Additionally, (Seligman, 2002) added that one crucial aspect of happiness is involvement. Through social activities with other people also foster social support from the surrounding so that it can support the happiness of older people.

Moreover, the support of family and the environment can bring happiness to someone who suffers/has complaints of illness or has a chronic illness. According to (Sulandari et al., 2017), living with family is one of the factors that can bring happiness, as is the case for some older people who care for grandchildren is happiness. These results are not in line with the finding (Asadullah & Chaudhury, 2012), which uncover that no relationship between religion or gender affects happiness, but interpersonal relationships and social wealth will affect happiness. Hence, it differs from this study that shows that religious activities play an important role in happiness. Further finding (Sander, 2017) showed that religious background impacts on happiness. The findings in this study show that religious activities carried out by older people have a positive impact on the psychological health

of older people, such as feeling calm, happy, gaining motivation to get merit.

Bayani (2014) revealed that there is a significant relationship between religion and happiness. Furthermore, Sulandari et al., (2017) states that some religious activities undertaken by older people can make the older people feel happy through gaining calm and the spirit of activity, feeling happy, and feeling closer to God.

Even though older people are sick, they can still work, and it can grow their satisfaction. It is in line with the opinion (Suardiman, 2011), who stated that older people work to maintain physical condition remains active and motivated by the desire to be independent. Suardiman also added that older people who can meet their needs independently would feel satisfied. It is supported by the opinion of Santrock (2012), who noted that older people will feel happier when they are active, energetic, and productive. Besides, Indriana (2013) also believed that working is not only for economic needs, but also for an opportunity to develop themselves, build relationships, find life experiences, have the creative spirit, and to make themselves useful for others.

6. Conclusion

Based on the results of the study, it can be concluded that older people with chronic diseases were still able to be active in worship, socializing with the surrounding environment, working, doing daily chores, and having older people gymnastic. The benefits of engaging activities include the ability to feel happy, gain motivation to get merits, exchange ideas and share experiences, help others, be calm, and have good health. Older people with chronic disease can feel happy by actively doing various physical and social activities. This study result emphasized the importance of being engaged in activities for older people to achieve happiness even though they have poor health status.

7. Acknowledgement

We thank the Center for Islamic and Indigenous Psychology and Faculty of Psychology, Universitas Muhammadiyah Surakarta, for providing permissions for us to conduct the research and resources. This research receives a specific grant from Universitas Muhammadiyah Surakarta.

References

 Amalia. (2017). Pengaruh persepsi kesehatan terhadap tingkat kebahagiaan pada lansia [Effect of health perception on happiness levels in the older people]. Journal Psikovidya, 21(2), 1689–1699. https://doi.org/10.1017/CBO9781107415324.004

- Ambardini, R. L. (2009). Aktivitas fisik pada lanjut usia [Physical activity in the elderly]. Yogyakarta:UNY, 1–9. http://staffnew.uny.ac.id/upload/132256204/penelitia n/Aktivitas+Fisik+Lansia.pdf
- Asadullah, M. N., & Chaudhury, N. (2012).
 Subjective well-being and relative poverty in rural Bangladesh. Journal of Economic Psychology, 33(5), 940–950. https://doi.org/10.1016/j.joep.2012.05.003
- 4. Indonesian Central Bureau Statistics [BPS]. (2014).

 Statistik penduduk lanjut usia 2014 [The statistics of older people 2014]. Jakarta.

 https://www.bps.go.id/publication/download.html?nr

 bvfeve=ZTgzNzViOWI3YThlMGQzODBhMWZkM

 WRh&xzmn=aHR0cHM6Ly93d3cuYnBzLmdvLml

 kL3B1YmxpY2F0aW9uLzIwMTUvMTEvMDIvZT

 gzNzViOWI3YThlMGQzODBhMWZkMWRhL3N0

 YXRpc3Rpay1wZW5kdWR1ay1sYW5qdXQtdXNp

 YS0yMDE0Lmh0bWw%3D&twoadfnoarfeauf=MjA

 yMC0wNS0xMiAwNDo0OTo0MQ%3D%3D
- Bayani, A. A. (2014). The Relationship between religiosity and happiness among students in an Iranian University. Pertanika Journal of Social Science Humanities, 22(3), 709–716. Retrieved from https://core.ac.uk/download/pdf/153832255.pdf#page
- Bestari, B. K., & Wati, D. N. K. (2016). Penyakit kronis lebih dari satu menimbulkan peningkatan perasaan cemas pada lansia di Kecamatan Cibinong [More than one chronic disease causes an increase in anxiety in the elderly in Cibinong District]. Jurnal Keperawatan Indonesia, 19(1), 49–54. https://doi.org/10.7454/jki.v19i1.433
- Bixter, M. T. (2015). Happiness, political orientation, and religiosity. Personality and Individual Differences, 72, 7–11. https://doi.org/10.1016/j.paid.2014.08.010
- Boylu, A., Ayfer, Gunay, & Gulay. (2017). Life satisfaction and quality of life among the elderly: moderating effect of activities of daily living. Turkish Journal of Geriatrics, 20(1), 61–69. http://geriatri.dergisi.org/uploads/pdf/pdf_TJG_971.pdf
- Cai, J., Zhang, L., Zhao, Y., & Coyte, P. C. (2018).
 Psychological mechanisms linking county-level income inequality to happiness in China. International Journal of Environmental Research and Public Health, 15(12). https://doi.org/10.3390/ijerph15122667
- Chei, C.-L., Lee, J. M.-L., Ma, S., & Malhotra, R.
 (2018). Happy older people live longer. Age and

- Ageing, 47(6), 860–866. https://doi.org/10.1093/ageing/afy128
- Chopik, W. J., & O'Brien, E. (2017). Happy you, healthy me? Having a happy partner is independently associated with better health in oneself. Health Psychology, 36(1), 21–30. https://doi.org/10.1037/hea0000432
- Cockerham, W. C., Hamby, B. W., & Oates, G. R. (2017). The Social determinants of chronic disease.
 American Journal of Preventive Medicine, 52(1), S5–S12. https://doi.org/10.1016/j.amepre.2016.09.010
- Demir, M., Jaafar, J., Bilyk, N., & Mohd Ariff, M. R. (2012). Social Skills, friendship and happiness: A Cross-cultural investigation. The Journal of Social Psychology, 152(3), 379–385. https://doi.org/10.1080/00224545.2011.591451
- Dharma, A. (2014). Bentuk dukungan keluarga pada lansia etnis Tionghoa di Kota Bandung [Form of family support for elderly ethnic Chinese in the city of Bandung]. Temu Ilmiah IPLBI [IPLBI Scientific Meeting]. https://adoc.tips/bentuk-dukungan-keluarga-pada-lansia-etnis-tionghoa-di-kota-.html
- Didino, D., Taran, E. A., Gorodetski, K., Melikyan, Z. A., Nikitina, S., & Gumennikov, I. (2017). Exploring predictors of life satisfaction and happiness among Siberian older adults living in Tomsk Region. European Journal of Ageing. https://doi.org/10.1007/s10433-017-0447-y
- Diener, E. (2009). Subjective Well-being. In Diener E.
 (Ed). The science of well-being. the collected works of Ed Diener. New York: Springer.
- Diener, E., Ng, W., Harter, J., & Arora, R. (2010).
 Wealth and happiness across the world: Material prosperity predicts life evaluation, whereas psychosocial prosperity predicts positive feeling.
 Journal of Personality and Social Psychology, 99(1), 52–61. https://doi.org/10.1037/a0018066
- Erlangga, S. W. (2012). Subjektif well being pada lansia penghuni panti jompo [Subjective well being at the Older people occupants of nursing homes]. Universitas Gunadarma. Retrieved from http://repository.gunadarma.ac.id/bitstream/1234567
 89/1050/1/10504164.pdf
- Flynn, M. G., Markofski, M. M., & Carrillo, A. E. (2019). Elevated inflammatory status and increased risk of chronic disease in chronological aging: Inflamm-aging or inflamm-inactivity? Aging and Disease, 10(1), 147. https://doi.org/10.14336/AD.2018.0326

- Francis, P. (2014). Physical activities in elderly. In Benefits and barriers. Retrieved from https://www.theseus.fi/bitstream/handle/10024/7708
 7/Francis _Purity.pdf?sequence=1&isAllowed=y
- Hongu, N., Gallaway, P. J., & Shimada, M. (2015).
 Physical activity for older adults: Tips for getting started and staying active. Retrieved from https://repository.arizona.edu/bitstream/handle/10150/577440/az16792015.pdf?sequence=1&isAllowed=y
- Hori, M., & Kamo, Y. (2018). Gender differences in happiness: the effects of marriage, social roles, and social support in East Asia. Applied Research in Quality of Life, 13(4), 839–857. https://doi.org/10.1007/s11482-017-9559-y
- Hsu, H., & Chang, W. (2015). Social connections and happiness among the elder population of Taiwan. 7863(September).
- https://doi.org/10.1080/13607863.2015.1004160 24. Ikasi, A., & Hasanah, O. (2014). Hubungan dukungan
- keluarga terhadap kesepian (lonelinnes) pada lansia [Relationship of family support against loneliness in the older people]. Jurnal Keperawatan Komunitas, 1(2), 1–7. https://jom.unri.ac.id/index.php/JOMPSIK/article/view/3376/3273
- Indriana, Y. (2013). Gerontology & progeria. Yogyakarta. Pustaka Pelajar.
- Indriana, Y., Kristiana, I. F., Sonda, A. A., & Intanirian, A. (2010). Tingkat stres lansia di panti wredha "Pucang Gading" Semarang [The stress level of the elderly in the "Pucang Gading" nursing home Semarang]. Jurnal Psikologi Undip, 8(2), 87–96. https://doi.org/10.14710/jpu.8.2.87-96
- Inglehart, R., Foa, R., Peterson, C., & Welzel, C. (2008). Perspectives on psychological science rising happiness: A global perspective (1981–2007). Perspectives on Psychological Science, 3(4), 264–285. https://doi.org/10.1111/j.1745-6924.2008.00078.x
- Jahja, Y. (2011). Psikologi Perkembangan [Developmental psychology]. Jakarta: Kencana Prenada Media Group.
- Jeon, S. W., Han, C., Lee, J., Lim, J., Jeong, H.-G., Park, M. H., ... Steffens, D. C. (2016). Perspectives on the happiness of community-dwelling elderly in Korea. Psychiatry Investigation, 13(1), 50. https://doi.org/10.4306/pi.2016.13.1.50
- 30. Kapikiran, S. (2016). Relationship between life satisfaction and loneliness in the elderly: Examining

- the mediator role of social support. Elderly Issues Research Journal, 9(1), 13–25.
- Indonesian Ministry of Health. (2017). Analisis lansia di Indonesia. In Pusat data dan informasi Kementerian Kesehatan RI [Analysis of the elderly in Indonesia. In Indonesian Ministry of Health data and information center]. Retrieved from https://www.depkes.go.id/download.php?file=download/.../infodatin lansia 2016.pdf%0A
- Kim, J., Chun, S., Heo, J., Lee, S., & Han, A. (2016).
 Contribution of keisure-time physical activity on psychological benefits among elderly immigrants.
 Applied Research in Quality of Life, 11, 461–470.
 https://doi.org/10.1007/s11482-014-9374-7
- Kim, J., Lee, S., Chun, S., Han, A., & Heo, J. (2016).
 The effects of leisure-time physical activity for optimism, life satisfaction, psychological well-being, and positive affect among older adults with loneliness.
 Annals of Leisure Research, 20(4), 406–415.
 https://doi.org/10.1080/11745398.2016.1238308
- Kraja, F., Kraja, B., Mone, I., Harizi, I., Babameto, A., & Burazeri, A. (2016). Self-reported prevalence and risk factors of non-communicable diseases in the Albanian adult population. Medical Archives, 70(3), 208. https://doi.org/10.5455/medarh.2016.70.208-212
- Lera-Lopez, F., Ollo-Lopez, A., & Santos, J. M. S. (2017). How does physical activity make you feel better? The mediational role of perceived health. Applied Research Quality Life, 12(3), 511–531. https://doi.org/10.1007/s11482-016-9473-8
- Lestari, M. D. (2017). Persahabatan: makna dan kontribusinya bagi kebahagiaan dan kesehatan lansia
- 37. [Friendship: its meaning and contribution to elderly people's happiness and health]. Jurnal Psikologi Ulayat, 4(1), 59–82. https://jpu.k-pin.org/index.php/jpu/article/view/80
- Lobos, G., Lapo, M. del C., & Schnettler, B. (2016).
 In the choice between health and money, health comes first: an analysis of happiness among rural Chilean elderly. Cadernos de Saúde Pública, 32(5), 1–12. https://doi.org/10.1590/0102-311x00032215
- Lotfaliany, M., Bowe, S. J., Kowal, P., Orellana, L., Berk, M., & Mohebbi, M. (2018). Depression and chronic diseases: Co-occurrence and communality of risk factors. Journal of Affective Disorders, 241(1), 461–468. https://doi.org/10.1016/j.jad.2018.08.011
- Lu, L., & Gilmour, R. (2004). Culture and conceptions of happiness: individual oriented and social oriented swb. Journal of Happiness Studies, 5(3), 269–291. https://doi.org/10.1007/s10902-004-8789-5

- 41. Mastuti, D. A., & Sulandari, S. (2016). Kebahagiaan lansia ditinjau dari dukungan keluarga [Older people happiness based on family support]. Skripsi. Universitas Muhammadiyah Surakarta. http://eprints.ums.ac.id/47181/
- 42. Mayasari, R. (2014). Religiusitas islam dan kebahagiaan (sebuah telaah dengan perspektif psikologi) [Islamic religiosity and happiness (a study with a psychological perspective)]. Al-Munzir, 7(2). https://scholar.google.co.id/citations?user=iRu258M AAAAJ&hl=en
- Moeini, B., Barati, M., Farhadian, M., & Ara, M. H. (2018). The Association between social support and happiness among elderly in Iran. Korean Journal of Family Medicine, 39(4), 260–265. https://doi.org/10.4082/kjfm.17.0121
- Nemati, S., & Maralani, F. M. (2016). The relationship between life satisfaction and happiness:
 The mediating role of resiliency. International Journal of Psychological Studies, 8(3), 194. https://doi.org/10.5539/ijps.v8n3p194
- 45. Nuryanti, T., Indarwati, R., & Hadisuyatmana, S. (2019). Hubungan perubahan peran diri dengan tingkat depresi pada lansia yang tinggal di Upt Pslu Pasuruan Babat Lamongan [The relationship of changes in self-role with the level of depression in the older people who live in Upt Pslu Pasuruan Babat Lamongan]. Indonesian Journal of Community Health Nursing, 1(1), 1–7. https://doi.org/org/10.20473/ijchn.v1i1.11898
- 46. Paramitha, T., & Puspitasari, R. (2016, May 27). 2050, Lansia Indonesia diperkirakan 80 juta jiwa [Older people Indonesians estimated at 80 million]. Retrieved from http://life.viva.co.id/news/read/777596-2050-lansiaindonesia-diperkirakan-80-juta-jiwa
- 47. Parasari, G. A. T., & Lestari, M. I. (2015). Hubungan dukungan sosial keluarga dengan tingkat depresi pada lansia di Kelurahan Sading [Relationship of family social support with the level of depression in the older people in Kelurahan Sading]. Journal of Psikologi Udayana, 2(1), 68–77. Retrieved from https://simdos.unud.ac.id/uploads/file_penelitian_1_dir/32e2446de8cade15a040dcd46400cb4b.pdf
- 48. Pertiwi, R. (2017). Kebahagiaan pada lanjut usia ditunjau dari keterlibatan dalam aktivitas sehari-hari [Happiness in the older people is shown by involvement in daily activities] .Universitas Muhammadiyah Surakarta.

- http://eprints.ums.ac.id/48982/14/Nas-Pub%20Rizkya.pdf
- Pool, M. K., Sadeghi, R., Majlessi, F., & Foroushani,
 A. R. (2014). Effects of physical exercise programme
 on happiness. Journal of Psychiatric and Mental
 Health Nursing, 22(1), 1–11.

 https://doi.org/10.1111/jpm.12168
- Prince, M. J., Wu, F., Guo, Y., Gutierrez Robledo, L. M., O'Donnell, M., Sullivan, R., & Yusuf, S. (2014). The burden of disease in older people and implications for health policy and practice. The Lancet, 385(9967), 549–562. https://doi.org/10.1016/S0140-6736(14)61347-7
- Indonesian Ministry of Health Data and Information Center [Kemenkes]. (2013). Gambaran kesehatan lanjut usia di Indonesia [Overview of older people health in Indonesia].
- Putri, E. W. (2018). Konsep kebahagiaan dalam perspektif Al-Farabi [The concept of happiness in the perspective of Al-Farabi]. Thaqafiyyat:Jurnal Bahasa, Peradaban Dan Informasi Islam, 19(1), 95–111. http://ejournal.uin-suka.ac.id/adab/thaqafiyyat/article/view/1321
- Rey, L., Extremera, N., & Sanchez-Alvarez, N. (2019). Clarifying the links between perceived emotional intelligence and well-being in older people: Pathways through perceived social support from family and friends. Applied Research in Quality of Life, 14(1), 221–235. https://doi.org/10.1007/s11482-017-9588-6
- Richards, J., Jiang, X., Kelly, P., Chau, J., Bauman, A., & Ding, D. (2015). Don't worry, be happy: crosssectional associations between physical activity and happiness in 15 European countries. BMC Public Health, 15(1), 53. https://doi.org/10.1186/s12889-015-1391-4
- 55. Basic Health Research [Riskesdas]. (2018). Prevalensi Penyakit Tidak Menular Meningkat [The prevalence of non-communicable diseases is increasing]. https://www.suara.com/health/2018/11/02/101437/hasil-riskesdas-2018-penyakit-tidak-menular-semakin-meningkat
- Riyanto, W. B. (2014). Beberapa kondisi fisik dan penyakit yang merupakan faktor resiko gangguan fungsi kognitif [Several physical conditions and diseases are risk factors for cognitive dysfunction].
 Cermin Dunia Kedokteran-212, 41(1). https://docplayer.info/97295-Beberapa-kondisi-fisik-

- dan-penyakit-yang-merupakan-faktor-risikogangguan-fungsi-kognitif.html
- Sander, W. (2017). Religion, Religiosity, and Happiness. Review of religious research, 59(2), 251– 262. https://doi.org/10.1007/s13644-017-0285-6
- Santrock, J. W. (Ed). (2012). Life-span development. Jakarta: PT. Gelora Aksara Pratama.
- Seligman, M. E. P. (2002). Authentic happiness: using the new positive psychology to realize your potential for lasting fulfillment. New York: The Free Press.
- Selingman, M. (2013). Beyond authentic hapiness: Menciptakan kebahagiaan sempurna dengan psikologi positif [Creating perfect happiness with positive psychology]. Bandung: PT Mizan Pustaka.
- Shishido, K., & Sasaki, T. (2020). Happiness in Japan:
 A hierarchical age-period-cohort analysis based on JGSS cumulative data 2000–2015. In Quakity of life in Japan Contemporary Persectives on Happiness (pp. 15–45). https://doi.org/10.1007/978-981-13-8910-8
 8 2
- 62. Siqueira, J., Fernandes, N. M., & Moreira-Almeida, A. (2019). Association between religiosity and happiness in patients with chronic kidney disease on hemodialysis. Jornal Brasileiro de Nefrologia: 'orgao Oficial de Sociedades Brasileira e Latino-Americana de Nefrologia, 41(1), 22–28. https://doi.org/10.1590/2175-8239-JBN-2018-0096
- Soraki, N., & Abolghasemi, S. (2016). Relationship between happiness and health with a life expectancy of cancer patients. Journal of Current Research in Science, 2, 403.
- 64. Souza, ILidia N. N. DE, Carvalho, P. H. B. De, & Ferreira, Ma. E. C. (2018). Quality of life and subjective well-being of physically active elderly people: A systematic review. Journal of Physical Education and Sport, 18(3), 1615–1623. https://doi.org/10.7752/jpes.2018.03237
- Steptoe, A., Deaton, A., & Stone, A. A. (2014).
 Subjective wellbeing, health, and ageing. The Lancet, 6736(13), 1–9. https://doi.org/10.1016/S0140-6736(13)61489-0
- Suardiman, S. P. (2011). Psikologi lanjut usia [Pychology of older people] . Yogjakarta: Gadjah Mada University Press.
- Sujarwoto, S., Tampubolon, G., & Pierewan, A. C. (2018). Individual and contextual factors of happiness and life satisfaction in a low middle income country. Applied Research in Quality of Life, 13(4), 927–945. https://doi.org/10.1007/s11482-017-9567-y

- Sulandari, S., Wijayanti, M., & Sari, R. D. P. (2017).
 Religious activity: an alternative to achieve happiness in later life. Journal Of Education and Social Sciences, 6(2), 55–64. Retrieved from https://www.jesoc.com/wp-content/uploads/2017/04/KC6_32a.pdf
- Taylor, D. (2014). Physical activity is medicine for older adults. Postgraduate Medical Journal, 90(1059), 26–32. https://doi.org/10.1136/postgradmedj-2012-131366
- Valois, R. F., Zullig, K. J., Huebner, E. S., & Drane,
 J. W. (2004). Physical activity behaviors and perceived life satisfaction among public high school adolescents. Journal of School Health, 74(2), 59–65. https://doi.org/10.1111/j.1746-1561.2004.tb04201.x
- Vishkin, A., Bigman, Y., & Tamir, M. (2014).
 Religion, emotion regulation, and well-being. In Religion and Spirituality across cultures (pp. 247– 269). https://doi.org/10.1007/978-94-017-8950-9_13
- World Health Organization [WHO]. (2010). Global recommendations on physical activity for health. Geneva: World Health Organization. Retrieved from https://www.ncbi.nlm.nih.gov/books/NBK305057/
- 73. World Health Organization [WHO]. (2011).

 Noncommunicable diseases country profile 2011.

 https://www.who.int/news-room/fact-sheets/detail/ageing-and-health
- World Health Organization [WHO]. (2018). Ageing and health. Retrieved from file:///G:/lansia/lansia/lansia/Ageing and health.html
- You, S., & Lim, S. A. (2018). Religious orientation and subjective well-being: The mediating role of meaning in life. Journal of Psychology and Theology, 47(1), 34–47. https://doi.org/10.1177/0091647118795180
- Zhao, Y., & Wu, L. (2018). Your health, my happiness: Optimism and socioeconomic status as moderators between spousal health and life satisfaction among the olderly. Open Journal of Social Sciences, 06(12), 127–141. https://doi.org/10.4236/jss.2018.612012

PRIZREN SOCIAL SCIENCE JOURNAL

GRATITUDE, SELF-ESTEEM AND OPTIMISM IN PEOPLE WITH PHYSICAL DISABILITIES



Rini LESTARI, S.Psi., M. Si. 10 1*

Maharani FAJAR, S. Psi. D 2

- 1 Universitas Muhammadiyah Surakarta, Faculty of Psychology, mailto:rl237@ums.ac.id, * Correspondent Author
- 2 Universitas Muhammadiyah Surakarta, Faculty of Psychology, mailto:maharanifajar59@gmail.com

Article historu:

Accepted 25 June 2020 Available online 31 August 2020

Keywords:

Gratitude,
Optimism,
Physical Disability,
Psychological Problems,
Self-Esteem.

Abstract

The psychological problems experienced by people with physical disabilities are feeling hopeless and uncertain of their future. They feel the future will be dismal. They also feel afraid of not having proper education, jobs, and place in society, not be able to work normally, fail in lives, rejected, and not be able to give the best to their loved ones. This condition indicates non-optimistic. Optimism is an essential psychosocial resource for protecting the health and influencing human functioning. The purpose of this study is to examine the relationship between gratitude and self-esteem with optimism in people with physical disabilities. The samples of this study were people with physical disabilities, aged 18 - 35 years old, attended social rehabilitation and totaled 106 people. Data collection methods were gratitude scale, self-esteem scale, and LOT-R. Analysis of the data used multiple regression analysis. The analysis indicates that there is a significant relationship between gratitude and self-esteem with optimism in people with physical disabilities. The contribution of gratitude and self-esteem variables to optimism is 48.1%. People with physical disabilities have optimism and gratitude in the high category, while self-esteem in the medium category.

1. Introduction

The number of people with disabilities in the world is increasing, at least 10% of the population has physical, mental, social, and 80% of disabilities is in the developing countries (Forouzan, Mahmoodi, Shushtari, Salimi, 2013). World Health Organization's data (WHO, 2018) show that 15% of the world's population has physical disabilities and \pm 100-200 million people aged \pm 13 years and above have physical disabilities. The percentage of disabilities in Indonesia also continues to increase every year. In 2018, there are 10.2% of children aged 5-17 years and 44% at ages 18-59 years have disabilities (Kementerian Kesehatan Republik Indonesia, 2018). A large number of people with disabilities make the government need to pay more attention to assist the problems faced by people with disabilities.

There are four types categorizes people with disabilities, i.e., physical, mental, intellectual and sensory (UU RI Nomor 8 Tahun 2016). People with physical disabilities are referred as crippled, physically disabled, physically handicapped, i.e., individuals who

have orthopedic and physical disabilities making it difficult to move normally (Merdiasi, 2013; Misbach, 2014). This physical disability can be owned by someone from the hereditary (congenital), or not from the hereditary (accident or illness).

Various physical, social and psychological problems are frequently experienced by people with physical disabilities. For this reason, the government provides a social rehabilitation center that provides services, rehabilitation, resocialization, and further guidance for people with physical disabilities. This social center aims to improve social, physical, psychological, mental functioning, spiritual capabilities and responsibilities of people with physical disabilities as members of the community. In this social center, people with physical disabilities are given education and various skills to live in the community. However, the imperfect physical condition still has serious psychological effects and other negative feelings. The dominant psychological problem experienced by people with physical disabilities is feeling lost, hopeless, and unsure of their future. They feel the

future will be dismal. They also feel afraid of not having proper education, jobs, and place in society, not be able to work normally, fail in lives, being rejected, and not be able to give the best to their loved ones. This condition indicates pessimism or non-optimistic. Optimism is essential for life because it becomes a psychosocial resource to protect health and affect human functioning (Karademas, 2006; Rasmussen, Scheier, & Greenhouse, 2009).

Optimism is a cognitive tendency to expect and predict positive outcomes (Carver & Connor-Smith, 2010; Scheier, Carver, & Bridges, 2001; Srivastava, Richards, McGonigal, Butler, & Gross, 2006; Srivastava & Angelo, 2009). Optimism is also the hope that positive events will occur in individuals (Carver, Scheier & Segerstrom, 2010). Optimistic individuals will have positive expectations and are confident about their future. Optimism will direct human behavior to be more positive (De Vries, 2009).

Optimism is influenced by several factors including gratitude (Emmons & McCullough, 2003) and self-esteem (Karademas, Karvelis & Argylopoulou, 2007; Seligman, 1991). Gratitude is one of the factors, which has a positive impact on humans (Emmons, 2007). Gratitude is a feeling of gratitude and appreciation for the kindness received. Various life experiences can cause feelings of gratitude, but gratitude frequently comes from the perception that someone has received gifts or kindness from other parties (Emmons, McCullough, & Tsang, 2003). Gratitude is done transparently to God, nature, animals, and interpersonal (Emmons & Shelton, 2002; Ruini, 2017). Gratitude also means recognition of positive things that happen to individuals (Emmons, 2007). Gratitude occurs when someone realizes something good has happened to him and other parties are contributing and responsible for the benefits received. Something good is not only the benefits that just happened but also those that happened in the past. Good things are positive benefits that have appeared in a person's life and can eliminate unpleasant conditions (Watkins, 2014). Research shows that gratitude is a significant crucial resource for individuals (Emmons & Shelton, 2002) and contributes to optimism (Emmons & McCullough, 2003). Individuals who are grateful for the circumstances they receive will have positive expectations for the life to come.

Optimism is also influenced by self-esteem. Self-esteem is an evaluation of oneself and becomes one of the specific components of self-concept (Robinson, Shaver & Wrightsman, 1991). Self-esteem concerns with how individuals perceive, feel, and respect themselves realistically (McKay & Fanning, 2000; Schiraldi, 2007). Realistic means the individuals are dealing with the truth,

accurately and honestly realizing their strengths, weaknesses, while respecting shows that the individuals have positive feelings. Self-esteem includes self-efficacy and self-respect. Self-efficacy means confidence that can think, understand, learn, choose, and self-respect means to guarantee something of value; appreciation for life and happiness; comfortable in thoughts, desires, and needs; the feeling that happiness and self-fulfillment are individual rights (Branden, 1994). Individuals who have positive self-esteem will consider failure as a challenge to face calmly when they fail so that it leads to a positive impression on their personality. It will also facilitate the resolution of other problems and cause a sense of satisfaction with themselves (Triwahyuningsih, 2017). This self-satisfaction will trigger more positive hopes for the future.

The research on optimism has been conducted on a variety of subjects but it is still rarely done on people with physical disabilities especially those related to gratitude. The purpose of this study is to examine the relationship between gratitude and self-esteem with optimism in people with physical disabilities. The hypothesis of this study is that there is a relationship between gratitude and self-esteem with optimism in people with physical disabilities.

2. Method

2.1. Subjects

The subjects of this study were people with physical or non-congenital disabilities (accidents, illness), aged 18 -35 years (average age = 25.3 years), participated in social rehabilitation and totaled 106 people.

Table 1. Distribution of Subjects

Criteria	Total	%
ender		
a. Male	79	74
b. Female	27	26
vel of education		
a. Elementary School	12	11
b. Junior High School	26	25
c. Senior High School	68	64
urce of Physical Disability		
a. Congenital	57	54
b. Non-Congenital	49	46
b. Non-Congenital	49	

2.2. Data Collection

The data collection of this study was the gratitude scale, self-esteem scale, and The Revised Life Orientation Test (LOT-R). LOT-R (Carver & Scheier, 2003) was implemented to measure the level of optimism of the subject. LOT-R consists of 10 items and has a Cronbach's alpha reliability $\alpha=0.840$.

Gratitude was measured by the Indonesian version of the gratitude scale developed by Listiyandini, Nathania, Syahniar, and Nadya (2017), by integrating the Fitzgerald gratitude component (Emmons, 2004) and Watkins, Woodward, Stone, and Kolts (2003). These components are a sense of appreciation for others, God and life, positive feelings towards life owned, and a tendency to act positively as an expression of positive feelings and appreciation that is owned (behavior expression). This gratitude scale consists of 20 items and has a Cronbach's alpha reliability $\alpha=0.887$.

Self-esteem was measured using a self-esteem scale based on Coopersmith's theory, with significant, power, competence, and virtue aspects (Coopersmith, 1967). The self-esteem scale consists of 21 items and has a Cronbach's alpha reliability $\alpha = 0.817$

All scales applied have reliability coefficients above 0.80 that indicate high internal consistency (Weels & Wollack, in Azwar, 2018). Choice of answers on a scale using the method of a

summated rating scale with four answer choices, i.e., Very Unsuitable (VUS), Unsuitable (US), Suitable (S), Very Suitable (VS). The term "Suitable" is used as a response choice on a scale that measures the state of the subjects so that in responding to the subject items first weigh the extent to which the contents of the statement is a description of their state or a description of their behavior (Azwar, 2012).

2.3. Data Analysis

Analysis of the data applied in this study was the multiple regression analysis. This analysis was selected because it will examine the correlation between two independent variables namely gratitude and self-esteem with one variable depending on optimism.

3. Results and Discussion

3.1. Results

The results of statistical analysis show the value of R=0.693; p=0.000 (p <0.01); which means there is a very significant relationship between gratitude and self-esteem with optimism in people with physical disabilities. These results can prove the hypothesis proposed by researchers that there is a relationship between gratitude and self-esteem with optimism in people with physical disabilities. The results of the analysis are shown in table 2.

Table 2. Regression analysis

	N	SD	Mean	R	R square	Sig.
						(1 tailed)
Gratitude	106	7.013	64.34	0.693	0.481	0.000**
Self Esteem		6.121	61.24			
Optimism		2.185	18.16			

Note: ** p<0.01

Statistical analysis also indicates that the value of r1 = 0.518; p = 0,000 (p <0.01); which means there is a very significant positive relationship between gratitude and optimism in people with physical disabilities. Likewise, the value of r2 = 0.541; p = 0,000

(p <0.05); which means there is a very significant positive relationship between self-esteem and optimism in people with physical disabilities. The analysis results are shown in table 3.

Table 3. Analysis of gratitude, self-esteem, and optimism correlation

Variable	r	Sig. (1 tailed)
Gratitude, optimisme	0.518	0.000**
Self-esteem, optimisme	0.541	0.000**

Note: ** p<0.01

The effective contribution made by the gratitude and self-esteem to optimism is 48.1%, so there are still 51.9% of other variables that affect optimism. Hypothetical mean gratitude is 50, while

empirical mean gratitude is 64.34. Hence, the subject's gratitude is categorized as high. The hypothetical mean of self-esteem is 52.5, while the empirical mean of self-esteem is 61.24. Thus, the

subject's self-esteem is classified as moderate. Hypothetical mean optimism is 15, while the empirical mean of optimism is 18.16. Hence, the optimism of research subjects is classified as high.

3.2. Discussions

This research proves that there is a very significant relationship between gratitude and self-esteem with optimism in people with physical disabilities. The analysis also proves a very significant positive relationship between gratitude and optimism in people with physical disabilities ($r=0.518;\ p<0.01$). Correlation of gratitude and optimism is strong category (Sujarweni, 2014). This results support the research of Emmons and McCullough (2003) and Bono, Emmons, & McCullough (2012).

Grateful individuals realize other parties have contributed to themselves and will appreciate any gift from God and other parties. People with physical disabilities understand that they have received positive treatment from caregivers, social institutions, and the government who have tried to achieve independence and improve their welbeing through maintenance, rehabilitation, social assistance, and equal opportunities. They also appreciated the government's efforts to develop public facilities that are friendly to people with physical disabilities. This acceptance and appreciation will give rise to positive feelings about their life now and in the future (Fitzgerald, in Emmons, 2004; Watkins et al., 2003). The seriousness and support of the government will foster hope that the lives of people with disabilities will be much better in the future. People with physical disabilities have confidence and hope that they will be able to move better and positive things will happen in the future so that optimism increases (Carver et al., 2010). Conversely, people with disabilities who are less aware of and appreciate the giving of other parties will still emerge negative feelings and feel marginalized so that they tend to be pessimistic and uncertain of their lives in the future.

Gratitude is done when there is an acknowledgment that something positive has happened to the individual (Emmons, 2007). Grateful individuals will thank and appreciate the goodness of others' interpersonal and transpersonal (Emmons et al., 2003). This feeling can lead to a life orientation of someone who pays more attention to positive things (Wood, Froh, & Geraghty, 2010) so that they will have positive hopes for the life to come (Emmons & McCullough, 2003). People with physical disabilities can be grateful because they can still accomplish their daily activities independently even though their physical conditions are imperfect such as having no hands, feet, and so on. They feel that this condition is a gift from God and believe there is a better plan for God so that they remain optimistic about their future. Whereas people with physical disabilities who are less

grateful will feel that they are not worthy to live in the world, because they will only distress others and their surroundings so they do not have positive hopes for their future.

This study also proves that there is a very significant positive relationship between self-esteem and optimism in people with physical disabilities (r = 0.541; p <0.01). Correlation of selfesteem and optimism is strong category (Sujarweni, 2014). This result supports the research of Purba (2017) and Mulawarmani, Nugroho, Susilawati, Afriwilda, Kunwijaya (2019). Selfesteem is an individual's evaluation of oneself (Amirazodi & Amirazodi, 2011; Robinson et al., 1991). Individuals who have high self-esteem will be more willing to take risks to achieve goals despite the possibility of failure. However, individuals with low self-esteem tend to fear being rejected in the pursuit of success and prestige, avoiding risks that make situations difficult for themselves (Baumeister, Campbell, Krueger, & Vohs, 2003). Thus individuals who have high self-esteem will increase the probability of success, reduce the effects of failure to develop optimism (Bastianello, Pacico, & Hutz, 2014; Campbell, Chew, & Scratchley, 1991).

Optimistic individuals have sufficient self-esteem characteristics, tend to accept themselves as carriers of positive characteristics that are socially desirable, and have a high level of self-control (Tsivilskaya & Artemyeva, 2016). Individuals who have high self-esteem will respect themselves so that they have positive feelings because they believe in their abilities realistically and feel happy with the fulfillment of their rights (Branden, 1994). People with physical disabilities who have high self-esteem will respect themselves and have confidence that they are valuable. They can accept and forgive themselves for all the shortcomings and imperfections they have. They will not feel down when being criticized. These positive beliefs and feelings will influence attitudes and behaviors to be more optimistic about the future. Optimistic individuals hope that positive events will occur (Carver et al., 2010). It happens because optimistic individuals are frequently more willing to face daily challenges and believe in having the power to overcome challenges by trying to increase their strength and use innovative thinking to achieve success (Seligman, 1991).

Gratitude and self-esteem contribute 48.1% so there are 51.9% other variables that affect optimism. Variables that can affect optimism include interest, motivation, self-confidence, successful experiences (Seligman, 1991), age, parity status, marital status, health status, education level, family support, stress, coping, self-efficacy (Karademas et al., 2007; Mosing et al., 2009) and socioeconomic status (Carver et al., 2010).

The results of this study indicate that the level of optimism of people with physical disabilities is relatively high. It can be high since people with physical disabilities have attended education in social rehabilitation institutions so that they already have the skills to make a living as the main goal of the adult subjects. Their skills range from photography, workshop, carpentry, computer, sewing, food, and beauty. Social institutions also provide internship opportunities in government and private institutions to provide practical opportunities and increase their confidence. Some people with disabilities have also successfully worked in government and private institutions. It is an example for other people with disabilities and motivates them to be able to reveal work and have a better life in the future.

One factor that can increase optimism is social support (Seligman, 1991). Social support can be provided in the form of emotional, appreciation, instrumental, and information support (Sarafino, 2006). People with physical disabilities obtain attention, guidance, education, appreciation, information, and physical-social facilities that can provide a more positive sense of security and hope for their future. The government also provides opportunities for people with physical disabilities to obtain equal access to education, health, political, technology, information, communication, and better employment opportunities in the formal and informal sectors. Government programs that plan to establish factories that employ and are managed by people with physical disabilities convince them to enjoy the rights without discrimination. People with disabilities also obtain full support from the government with affirmative programs in the form of providing disability cards, individual assistance, social assistance, and independence. The government also gave bonuses to athletes who got or did not get the medals at the 2018 Asian Games as a form of respect and appreciation for all the dedication and struggle of athletes for the nation and state. This opportunity strengthens the belief of people with physical disabilities that they have good opportunities in the future.

The gratitude of people with physical disabilities is also high because they feel fortunate to have the opportunity to get free education, skills, and physical needs provided by the government. When they graduate, they also obtain capital equipment to work such as cameras, sewing machines, and beauty equipment. They understand that not all people with physical disabilities got the opportunity that they obtained so far. Religious studies are also conducted routinely so that people with physical disabilities get continuous spiritual learning. This repetitive information will strengthen the subjects to continue to be grateful for gifts given by God (they are healthy, and able to see so they can learn others) compared from others (attention. to or nursing/government facilities, education, clothing, equipment,

shelter, friends, caregivers and so on). Various life experiences received by these individuals can cause feelings of gratitude (Emmons et al., 2003). The more positive experiences, the higher the gratitude.

Self-esteem is one of the most crucial aspects of personality that can shape identity and affect all life (Mulawarmani et al., 2019). Therefore, it needs to be improved in various ways. One of the ways undertaken by the government is a commitment to realize disability equality, build an inclusive and disability-friendly, and encourage more participation and active participation in development. However, these efforts have not been able to make the dignity of people with physical disabilities high. Their selfesteem is moderate because the physical condition is still a major concern. People with physical disabilities tend to compare their physicality with others when they first meet and sometimes they still have doubts about the acceptance of others because of their imperfect physical condition. Several studies also identified that the most essential component and the main predictor of selfesteem is social acceptance and physical appearance in men and women at all age levels (Shapka & Keating, 2005).

The process of forming self-esteem starts with the interaction of individuals with their environment. In their interactions with other people, individuals try to know themselves and others. The picture of themselves will form an organized concept within the individuals. The concept will form a self-image that is the overall perception of the quality, abilities, encouragement, and attitudes they have in interacting with others. It will further shape selfesteem (Rosenberg, 1989). Self-esteem is influenced by internal factors such as the capacity to love, rationally thinking, the state of one's body (appearance, vitality, and health, mood, performance, level of expertise, and control over events) (Schiraldi, 2007), personality trait (Amirazodi & Amirazodi, 2011), and mindfulness (Pepping, O'Donovan, Davis, 2013). External factors that influence self-esteem are demographic conditions (economic status, sex, race, age), respect, family relationships, popularity (Schiraldi, 2007), parenting models, social environment, academic success, social status (McKay & Fanning, 2000), feedback from significant people, family disputes and disorders (Mann, Hosman, Schaalma & de Vries, 2004), gender equality and cultural values (Bleidorn, Arslan, Denissen, Rentfrow, Gebauer, Potter, 2016) and physical exercise (Liu, Wu, Ming, 2015).

The self-esteem of people with physical disabilities still needs to be improved because it is highly crucial for health, the ability to overcome problems, survive, and health (Schiraldi, 2007). Self-esteem is also a strong motivation to work hard, enhance well-being, happiness, adjustment, success, satisfaction and academic

achievement (Schiraldi, 2007); improve performance, personal relationships, health and a healthy lifestyle (Baumeister et al., 2003); marital satisfaction (Homaei, Bozorgi, Ghahfarokhi & Hosseinpour, 2016). Individuals who lack self-esteem are more likely to experience depression, anxiety, poor social functioning, risky behavior, eating disorders, drop out (Mann et al., 2004), anger, chronic pain, decreased immunity, fear to initiate friendships, avoid social contact, incline to isolate, scare to express opinions, act recklessly, passive, aggressive and self-destructive and various other physical and psychological symptoms that are troublesome (Schiraldi, 1999, 2007).

4. Conclusion

People with physical disabilities frequently feel hopeless and less optimistic about their future, whereas optimism plays an essential role in human health. The optimism of people with physical disabilities can be influenced by gratitude and self-esteem. This research proves a very significant relationship between gratitude and self-esteem with optimism in people with physical disabilities. The contribution of gratitude and self-esteem variables to optimism is 48.1% so there are still 51.9% of other variables that influence optimism, such as interests, motivation, self-confidence, success experiences, age, parity status, marital status, health status, education level, family support, stress, coping, self-efficacy and socioeconomic status. People with physical disabilities have optimism and gratitude in the high category, while their self-esteem is in the medium category.

5. Acknowledgement

We thank to Universitas Muhammadiyah Surakarta and BBRSPDF [Balai Besar Rehabilitasi Social Penyandang Disabilitas Fisik], for providing permissions for us to conduct the research. This research receives a specific grant from Universitas Muhammadiyah Surakarta.

References

- 1. Amirazodi, F., & Amirazodi, M. (2011). Personality traits and Self-esteem. Procedia Social and Behavioral Sciences, 29, 713–716.
- $\underline{https:/\!/doi.org/10.1016/j.sbspro.2011.11.296}$
- Azwar, S. (2012). Penyusunan skala psikologi (2nd ed.). Yogyakarta: Pustaka Pelajar.
- Azwar, S. (2018). Reliability and validity (4th ed.).
 Yogyakarta: Pustaka Pelajar.
- 4. Bastianello, M. R., Pacico, J. C., & Hutz, C. S. (2014). Optimism, self-esteem and personality: adaptation and validation of the Brazilian Version Of The Revised Life Orientation Test (LOT-R). Psico-USF, 19(3), 523–531. https://doi.org/10.1590/1413-827120140190030

- 5. Baumeister, R. F., Campbell, J. D., Krueger, J. I., & Vohs, K. D. (2003). Does high self-esteem cause better performance, interpersonal success, happiness, or healthier lifestyles? Psychological Science in the Public Interest, 4(1), 1–44. https://doi.org/10.1111/1529-1006.01431
- 6. Bleidorn, W., Arslan, R. C., Denissen, J. J. A., Rentfrow, P. J., Gebauer, J. E., Potter, J., & Gosling, S. D. (2016). Age and gender differences in self-esteem: A crosscultural window. Journal of Personality and Social Psychology, 111(3), 396–410. https://doi.org/10.1037/pspp0000078
- 7. Bono, G., Emmons, R. A., & McCullough, M. E. (2012). Gratitude in Practice and the Practice of Gratitude. In P. A. Linley & S. Joseph (Eds.), Positive Psychology in Practice (pp. 464–481). New Jersey: John Wiley & Sons, Inc. https://doi.org/10.1002/9780470939338.ch29
- Branden, N. (1994). The six pillars of self-esteem.
 New York: Bantam Books, Inc.
- 9. Campbell, J. D., Chew, B., & Scratchley, L. S. (1991). Cognitive and emotional reactions to daily events: The effects of self-esteem and self-complexity. Journal of Personality, 59(3), 473–505. https://doi.org/10.1111/j.1467-6494.1991.tb00257.x
- 10. Carver, C. S., & Connor-Smith, J. (2010). Personality and coping. Annual Review of Psychology, 61(1), 679–704. https://doi.org/10.1146/annurev.psych.093008.100352
- Carver, C. S., & Scheier, M. (2003). Optimism. In S.
 Lopez & C. R. Snyder (Eds.), Positive psychological assessment: A handbook of models and measures. (pp. 75–89). Washington DC: American Psychological Association. https://doi.org/10.1037/10612-005
- 12. Carver, C. S., Scheier, M. F., & Segerstrom, S. C. (2010). Optimism. Clinical Psychology Review, 30(7), 879–889. https://doi.org/10.1016/j.cpr.2010.01.006
- 13. Coopersmith, S. (1967). The antecendents of self-esteem. San Francisco: W. H. Freeman and Company.
- 14. De Vries, M. F. R. K. (2009). The happiness equation. Meditations on happiness and success. Lincoln: iUniverse.
- 15. Emmons, R. A. (2004). The Psychology of Gratitude. In R. A. Emmons & M. E. McCullough (Eds.), The Psychology of Gratitude (pp. 3–16). New York: Oxford University
- https://doi.org/10.1093/acprof:oso/9780195150100.003.00 01
- Emmons, R. A. (2007). Thanks! How the new science of gratitude can make you happier. New York: Houghton-Mifflin.
- 17. Emmons, R. A., & McCullough, M. E. (2003). Counting blessings versus burdens: An experimental investigation of gratitude and subjective well-being in daily

- life. Journal of Personality and Social Psychology, 84(2), 377–389. https://doi.org/10.1037/0022-3514.84.2.377
- 18. Emmons, R. A., McCullough, M. E., & Tsang, J.-A. (2003). The assessment of gratitude. In S. J. Lopez & C. R. Snyder (Eds.), Positive psychological assessment: A handbook of models and measures. (pp. 327–341). Washington DC: American Psychological Association. https://doi.org/10.1037/10612-021
- 19. Emmons, R. A., & Shelton, C. M. (2002). Gratitude and the science of positive psychology. In C. R. Snyder & S. J. Lopez (Eds.), Handbook of positive psychology (pp. 459–471). Oxford: Oxford University Press.
- 20. Forouzan, S. A., Mahmoodi, A., Jorjoran Shushtari, Z., Salimi, Y., Sajjadi, H., & Mahmoodi, Z. (2013). Perceived social support among people with physical disability. Iranian Red Crescent Medical Journal, 15(8), 663–667. https://doi.org/10.5812/ircmj.12500
- 21. Homaei, R., Bozorgi, Z. D., Ghahfarokhi, M. S. M., & Hosseinpour, S. (2016). Relationship between optimism, religiosity and self-esteem with marital satisfaction and life satisfaction. International Education Studies, 9(6), 53. https://doi.org/10.5539/ies.v9n6p53
- 22. Karademas, E. C. (2006). Self-efficacy, social support and well-being. Personality and Individual Differences, 40(6), 1281–1290. https://doi.org/10.1016/j.paid.2005.10.019
- 23. Karademas, E. C., Karvelis, S., & Argyropoulou, K. (2007). Stress-related predictors of optimism in breast cancer survivors. Stress and Health, 23(3), 161–168. https://doi.org/10.1002/smi.1132
- 24. Kementerian Kesehatan Republik Indonesia. (2018). Hasil utama riskesdas 2018. http://kesmas.kemkes.go.id/assets/upload/dir_519d41d8cd 98f00/files/Hasil-riskesdas-2018_1274.pdf
- 25. Listiyandini, R. A., Nathania, A., Syahniar, D., Sonia, L., & Nadya, R. (2015). Mengukur rasa syukur: Pengembangan model awal skala bersyukur versi Indonesia. Jurnal Psikologi Ulayat, 2(2), 473–496. https://doi.org/10.24854/jpu22015-41
- 26. Liu, M., Wu, L., & Ming, Q. (2015). How does physical activity intervention improve self-esteem and self-concept in children and adolescents? evidence from a meta-analysis. PLOS ONE, 10(8), 1–17. https://doi.org/10.1371/journal.pone.0134804
- 27. Mann, M., Hosman, C. M. H., Schaalma, H. P., & de Vries, N. K. (2004). Self-esteem in a broad-spectrum approach for mental health promotion. Health Education Research, 19(4), 357–372. https://doi.org/10.1093/her/cyg041

- 28. McKay, M., & Fanning, P. (2000). Self-Esteem: A Proven program of cognitive tecniques for assessing, improving and maintaining your self-esteem. Oakland, CA: New Harbinger Publications, Inc.
- 29. Merdiasi, D. (2013). Gambaran tuna daksa yang bekerja. Jurnal Noetic Psychology, 3(2), 163–184.
- 30. Misbach, D. (2014). Seluk beluk tunadaksa & strategi pembelajarannya. Yogyakarta : Javalitera.
- 31. Mosing, M. A., Zietsch, B. P., Shekar, S. N., Wright, M. J., & Martin, N. G. (2009). Genetic and environmental influences on optimism and its relationship to mental and self-rated health: A study of aging twins. Behavior Genetics, 39(6), 597–604. https://doi.org/10.1007/s10519-009-9287-7
- 32. Mulawarmani, M., Nugroho, I. S., Susilawati, S., Afriwilda, M. T., & Kunwijaya, I. (2019). Enhancing self-esteem and optimism based on flipped classroom guidance on undergraduate counseling student in Indonesia. European Journal of Education Studies, 6(5), 263–273. https://doi.org/10.5281/zenodo.3382157
- 33. Pepping, C. A., O'Donovan, A., & Davis, P. J. (2013). The positive effects of mindfulness on self-esteem. The Journal of Positive Psychology, 8(5), 376–386. https://doi.org/10.1080/17439760.2013.807353
- 34. Purba, A. W. D. (2017). The correlation between self-esteem and optimism for the recovery of hemodialysis patient in the Dr. H. Kumpulan Pane Hospital. IOSR Journal Of Humanities And Social Science (IOSR-JHSS), 22(10), 71–81. https://doi.org/10.9790/0837-2210017181
- 35. Rasmussen, H. N., Scheier, M. F., & Greenhouse, J. B. (2009). Optimism and physical health: A meta-analytic review. Annals of Behavioral Medicine, 37(3), 239–256. https://doi.org/10.1007/s12160-009-9111-x
- 36. Robinson, J. P., Shaver, P. R., & Wrightsman, L. S. (1991). Measures of personality and social psychological attitudes. California: Elsevier/Academic Press. https://doi.org/10.1016/C2013-0-07551-2
- 37. Rosenberg, M. (1989). Society and the adolescent self-image. Middletown, CT: Wesleyan University Press.
- 38. Ruini, C. (2017). Positive psychology in the clinical domains. Springer International Publishing. https://doi.org/10.1007/978-3-319-52112-1
- 39. Sarafino, E. P. (2006). Health psychology: Biopsychological Interactions (5th ed.). New York: John Wiley & Sons, Inc.
- 40. Scheier, M. F., Carver, C. S., & Bridges, M. W. (2001). Optimism, pessimism, and psychological wellbeing. In E. C. Chang (Ed.), Optimism & pessimism: Implications for theory, research, and practice. (pp. 189–

- 216). Washington DC : American Psychological Association. https://doi.org/10.1037/10385-009
- 41. Schiraldi, G. R. (1999). Building self esteem: A 125 day program. Ellicott City: Chevron Pub Corp.
- 42. Schiraldi, G. R. (2007). 10 Simple solutions for building self-esteem: How to end self-doubt, gain confidence & create a positive self-image. Oakland, CA: New Harbinger Publications, Inc.
- 43. Seligman, M. E. P. (1991). Learned optimism. New York: Knopf.
- 44. Shapka, J. D., & Keating, D. P. (2005). Structure and change in self-concept during adolescence. Canadian Journal of Behavioural Science / Revue Canadienne Des Sciences Du Comportement, 37(2), 83–96. https://doi.org/10.1037/h0087247
- 45. Srivastava, S., & Angelo, K. M. (2009). Optimism, effects on relationships. In Encyclopedia of human relationships. Thousand Oaks, CA: Sage.
- 46. Srivastava, S., McGonigal, K. M., Richards, J. M., Butler, E. A., & Gross, J. J. (2006). Optimism in close relationships: How seeing things in a positive light makes them so. Journal of Personality and Social Psychology, 91(1), 143–153. https://doi.org/10.1037/0022-3514.91.1.143
- 47. Sujarweni, V. W. (2014). SPSS untuk penelitian. Yogyakarta: Pustaka Baru Press.
- 48. Triwahyuningsih, Y. (2017). Kajian Meta-Analisis Hubungan antara Self Esteem dan Kesejahteraan Psikologis. Buletin Psikologi, 25(1), 26–35. https://doi.org/10.22146/buletinpsikologi.9382
- Tsivilskaya, E. A., & Artemyeva, T. V. (2016). The study of optimism and positive self-concept of students.
 International Journal of Humanities and Cultural Studies (IJHCS),

https://www.ijhcs.com/index.php/ijhcs/article/view/2105
50. UU RI No. 8 Tahun (2016) [Undang-Undang Republik Indonesia Nomor 8 Tahun 2016 tentang Penyandang Disabilitas].

$\underline{http://www.dpr.go.id/dokjdih/document/uu/1667.pdf}$

- 51. Watkins, P. C. (2014). Gratitude and the good Life: Toward a psychology of appreciation. New York: Springer Netherlands. https://doi.org/10.1007/978-94-007-7253-3
- 52. Watkins, P. C., Woodward, K., Stone, T., & Kolts, R. L. (2003). Gratitude and happiness: Development of measure of gratitude and relationship with subjective wellbeing. Social Behavior and Personality, 31(5), 431–451. https://doi.org/10.2224/sbp.2003.31.5.431
- 53. Wood, A. M., Froh, J. J., & Geraghty, A. W. A. (2010). Gratitude and well-being: A review and theoretical

integration. Clinical Psychology Review, 30(7), 890–905. https://doi.org/10.1016/j.cpr.2010.03.005

54. World Health Organization [WHO]. (2018). Disability and health. https://www.who.int/news-room/fact-sheets/detail/disability-and-health 55.

VICTIM IDENTIFICATION, FRAMING HEURISTIC AND STRESS EFFECTS ON THE DONATION DECISION



Dr.Sc. Nihan TOMRİS KÜÇÜN 60 1*

Dr. Sc. Sezen GÜNGÖR 10 2

- 1 Eskişehir Osmangazi University, Cognitive-Behavioral Application and Research Center Service TERMS, nihan_tomris@hotmail.com,
- * Correspondent Author
- 2 Tekirdag Namık Kema University, Çorlu Vocational School, Business Administration Department, sezengungor@nku.edu.tr

Article history:

Accepted 12 July 2020 Available online 31 August 2020

Keywords:

Donation,

Framing Effect, İdentifiable and Statistical,

Victims.

Galvanic Skin Response.

Abstract

The tendency of an individual to share his beings with other people arises from the social aspect of human nature. Especially in today's conditions where the gap between advantageous and disadvantaged groups is getting deeper, donation is extremely important to reach a global level of welfare and to create fair living standards for all. Due to the stated priorities, donation behavior has an important place among both religious and moral values. However, the factors that lead an individual towards donation behavior are not only social rules. In addition to external factors, important internal factors such as emotions also play a big role in the donation decision. In addition, there are many variables such as the donated thing itself, total assets of the donor and indeed the characteristics of the donor. Donation behavior, which is widely examined in the literature, is also considered as an important decision making subject.

In our study, the effects that motivate an individual towards a donation; along with the donation amount and the ratio of donation, were examined with framing heuristics which express the individual's knowledge of the victim. The mentioned variables were associated with stress as one of the strongest negative arousal output, to understand the emotional aspect of a donation decision. The stress levels of the participants, who manipulated by two different scenarios, were monitored with galvanic skin response to determine the decision-making scenarios which triggered stress. As a result; it has been found that the individual's effort to gain the money he donates and the features of the donation call significantly affect the decision.

1. Introduction

A donation is giving tangible and intangible assets without waiting in return for those in need to create social benefit and fulfil individual social responsibility (Kılıçalp Iaconantonio, 2013). This behavior, which reduces the devastating consequences of injustice in income distribution, strengthens social unity and forms the basis of social solidarity, is motivated by both internal (Bennett, 2003) and external (Bekkers and Wiepking, 2011) motivations. External factors that motivate an individual to donate; the credibility of the donor institution/individual (Amos, 1982), belief that it will be useful

(Bennett, 2003) and even cultural and social norms (Woo, 1992) are extremely effective as external triggers.

Additionally, internal mechanisms that direct an individual to a donation has great importance on the decision and continuity of the donation. In the donation literature, the origins of psychographic factors that form internal triggers are generally examined in two main axes, namely empathy (Batson et al., 1988) and egoism which is associated with the desire to resolve negativity (Cialdini et al., 1997).

Although the literature on donation and determining factors (Fisher and Ackerman 1998; Smith and McSweeney, 2007) are

fairly extensive, studies to determine the emotions that affect individuals' donation attitudes and their formation are extremely limited (Kaufmann, 1970; Webb et al., 2000). However, analyzing the sub-components of attitudes is extremely important for understanding how donation behavior is shaped. Moreover, the fact that emotions have a very determining effect on people's decision-making process requires understanding the emotions experienced during donation.

Based on the stated importance and priorities, identifiable victim and framing effects on donation behavior were searched via participants' stress levels during donation as one of the psychophysiological responses. Thus, we achieved the results regarding both donation behavior and the participant's stress levels triggered by the stimuli. We believe that the studies conducted to understand the underlying mechanisms of behavioural triggers and emotion -including this study- could make an important contribution to the decision-making field.

2. Donation

The decision of an individual to sacrifice anything valuable to him to make social or personal goodness is a donation. There are two basic types of donation: in cash and in kind. Besides; donations such as blood, tissue and organs are also seen. But all donations usually have a common aim; to help someone and to create goodness for all.

Third Sector Foundation of Turkey (TUSEV) publishes yearly reports about Turkish people's donation behaviour (Çarkoğlu ve Aytaç, 2016). The last report of states that;

- The sum of all help and donations made in Turkey in a year, 228 TL per person (which corresponds to 0.8% of GDP) and the amount which was made through institutions of these were determined to be 16.7 TL per donation.
- The word "charity" was perceived as "helping the poor and the people in need" by the 40,6% of the participants and perceived as "helping others and doing something good" by 28,5% of them.
- As the reason for the donation behavior, 32.5% of the
 participants chose religious reasons, 20.4% traditions,
 14.2% the feeling of indebtedness towards the society
 and 12.7% personal satisfaction.
- "When asked to the participants whom they would like to help; participants mostly chose their relatives (37%). The least desire for help was reported to someone who does not share the political view of the participant (2%).

According to the CAF World Giving Index- 2018 report which is published by Charities Aid Foundation, Turkey' rank about donation is 131 between 146 countries. Indonesia is the first in the very same list. Donation and charity are defined in three groups in the report; helping others, a donation to a civil organization and spending time for a charity (CAF World Giving Index, 2018).

When we take into consideration the studies on donation decision, it is seen that besides the donation amount, the characteristics of the people or groups donated and the way these people are introduced to potential donors are also noteworthy. For example, if a call for help we face on social media also gives detailed information about the victim's dramatic story, our degree of empathy and the likelihood of deciding to make a donation for the needy person will increase. However, if a group of people and their needs are mentioned and these needs are presented to us statistically rather than empathically, we are less likely to be donors. These two different conditions are named as "identifiable victim effect" and "statistical victims" in the literature of donation (Anik et al., 2014).

2.1. Identifiable Victims and Statistical Victims

Identifiable victim effect refers to the rate of the needy people to the whole community. For example, if you are told that a family with 10 people are at death's door because of hunger and all members of this family will die if not helped, this condition will cause greater sensitivity due to the phenomenon "identifiable victims". On the other hand, if it is said that there are 1.000 people affected by infectious disease and 10 of them will die if they are not helped this is statistical knowledge and the sensitivity to those 10 people who are on the threshold of death will be relatively less. Identifiable victim researches show that if we know more about the victims we'll be more likely to spend time, money and effort for them. As Schelling (1968: 132) states, "the more we know, the more we care". Besides, the provided information about identifiable victims reveals subject's inferences related to the victims' "vitality" and "affinity". It is possible to briefly summarize the states of vitality and affinity as follows:

Scenario 1: In a Western African country Guinea, a two-year-old boy got the Ebola virus from a bat and is waiting for help. If he is not helped, the Ebola virus will spread many countries of the world as it is highly contagious and will cause thousands of people to die.

Scenario 2: A two-year-old boy living with his mother, brother, and grandmother in a West African country Guinea got Ebola virus from a bat which entered his dilapidated adobe house. Now,

he can't reach the cure because of poverty and impossibilities. The nearest hospital is hundreds of miles away from his village and even he achieves to go to the hospital, it is very difficult to reach the medicines and equipment needed for treatment, because Guinea is a country struggling with complete destitution and misery. If he is not helped, the world may face a new Ebola outbreak. It is expected initially to spread to local and foreign health personnel in Guinea and then sadly it will rapidly spread to many countries. Due to Turkey's tourism potential, it could be said that Turkey will be one of the first countries that Ebola will spread.

In the first scenario, the donor doesn't have a clue about the victim's story. So that it is really difficult to feel empathy. Oppositely in the second scenario, the victim is presented to the donor with more vivid details. Thus the donor can feel the victim's misery almost vitally. The other catching point of the second scenario the mention to Turkey. Thanks to the affinity effect, if the donor is a Turkish citizen, that scenario will make him think about the big risk for once at least. Those effects may determine the donated amount for the victim or the number of donors involved

In addition to all these variables, we believe that it is important to note that; there isn't just one correct answer for all. And, donating more to identifiable victims, but donating less to statistical victims can not be named as bias. Because it is not possible to define the "correct" financial value for a human being's life. Additionally, there is no verity mathematical formula for the donation amount. Bias is a concept that helps define people's inconsistent behavior, and there can be no consistent or inconsistent behavior in valuing a life (Small et al., 2005).

3. Framing Heuristics

Identifying victims in donation behavior is not accepted as a bias. However, in the decision-making field there are some common heuristics that people are influenced by. One of these heuristics is the "framing effect".

Framing is a concept that includes the details of how a subject is presented to individuals. Many sources on the presentation of alternatives mention an example of a driver's license and an organ donor. Accordingly, in the United States, a driver must sign a form to become an organ donor while obtaining his driving license. This is a preferential participation. However, the researches show that only 25% of the drivers who have received a driving license want to become organ donors. On the other hand, the situation maintains oppositely in countries such as Austria, Sweden and France. In other words, anyone who receives a driver's license is considered an organ donor. If you do not want

to be a donor, you must fill out a form. This is also called unpreferential participation. Also, related researches show that the rate of participation in organ donation in these countries is more than 90% (Nofsinger, 2011).

It is possible to frame a decision-making problem in different ways. Tversky and Kahneman (1981) showed in their experiments at Stanford University and British Columbia University that different results can be obtained by framing a problem in different ways. In that experiment, which is referred to the literature as "Asian Disease", two different scenarios with the same results are applied. According to the results, people can make decisions based on how a topic is presented to them. In other words, individuals evaluate information according to how it is transmitted to them. Also, they are likely to give different answers to the same questions, depending on how they are asked.

As a result, people's decision-making processes are open to the influence of many internal and external factors. Especially when it comes to sharing something valuable with another person both positive and negative emotions can be experienced like; empathy (Verhaert and Poel, 2011), satisfaction (Nguyen et al., 2008) happiness (Liu and Aaker, 2008), pride (Anjum and Gueth, 2019), regret (O'Carroll et al., 2011) stress (Ranganathan and Henley, 2008; Sollberger et al., 2016). Besides, the donated thing, how this thing is acquired, its amount, and the amount left to the individual in case of donation are other important determining variables (Havens et al., 2006). In summary, identifying the rational and irrational causes underlying donation behavior that requires a decision-making process is important also to understand the dynamics of the decision-making process.

4. Use of Neurometric and Biometric Methods in Decision Making Research

Decision-making studies find itself a wide range of applications in social sciences' branches (psychology (Hastie and Daves, 2009), finance (Steuer and Na, 2003), marketing (Keegan and Rowley, 2017)) just like in natural and applied sciences (Yu et al., 2017; Mosier and Skitka, 2018). Decision making, one of the most specific processes of human behavior, is shaped by many internal and external motivators. In addition to culture, environmental effects, norms, behavior patterns and many more sociological dynamics (Bruch and Feinberg, 2017), the individual's current attitudes and emotions (Rubenking, 2019) have a major impact on the process.

Qualitative (Hutchinson et al., 2018) and quantitative (Liao et al., 2017; Baker et al., 2017) approaches are both used separately or together in order to resolve the decision-making process. The complex nature of this process and the difficulty in the

generalization phase require the use of more than one approach. In addition to the person's statement or the researcher's observations, the use of some neuroscience methods in decision-making studies provides an important advantage in order to examine the effect of emotions on the process closely and without being dependent on self-report. In addition to neurometric measurement devices that monitor the cognitive load of the brain such as EEG and fMRI; there are various devices that track other biometric responses such as eye-tracking, electromyography (EMG), electrocardiography (ECG), galvanic skin response (GSR) etc.

GSR is one of the oldest methods used in emotion identification studies (Solnais et al., 2013); due to its important advantage in measuring somatic responses of the individual against the stimulus, it also offers important advantages to the researcher with its low cost, portable structure and practical use. In this study, the donation stress of the individual will be monitored with GSR within the scope of the effects described above. With GSR, it will be determined which effect caused more emotional arousal in the decision making processes of the participants.

4.1. Galvanic Skin Response

GSR is based on the principle of measuring electrical activity occurring on the skin surface. In an emotional state change, the sweat glands become active. Accordingly, the positive and negative ion balance changes on the skin surface. By tracking this change with GSR, it is possible to have information about the conscious/ unconscious process experienced by the individual. Briefly, GSR data is basically associated with emotional arousal. The disadvantage of GSR to the researcher is that this arousal cannot provide clear information about whether it is a positive or negative emotional arousal. GSR results are the autonomous response of the somatic nervous system. This change in skin conductivity is mostly associated with stress in the literature (Bakker et al., 2011; Villarejo et al., 2012; Kurniawan, 2013), and also with excitement describing a relatively positive stimulation (Zimny and Weidenfeller, 1962; Kucher et al., 2016; Cuesta et al., 2018). In order to clearly determine the arousal type, it is important either to use GSR integrated with other neuroscientific methods or to design the experiment model in a way that does not trigger the other emotional state.

5. Experimental Design

The sample of the research consists of 80 people. This sample was randomly divided into two and the experiment conducted with two groups of 40 people. Before starting the experiment, they were all informed about the experiment protocol and asked permission to collect biometric data.

The first group was named as "acquisition group". Researchers told the first group members that they will answer 5 mathematics questions with the chance to earn 2 TL for each correct answer.

The questions are as follows:

9x8=72 (2+5)x3=21 (3+4)x(5+6)=77 3^2+5^2=34 (2^3+3^2)x4^2=272

The amount of money earned by the participants in the acquisition group is between 0 and 10 TL. After playing the math game separately with each member of the group and delivering the money they earned to all the group members, the experiment phase started. Evaluation of the mathematics questions was made in front of the participants and the answers were checked in detail. Thanks to this evaluation, the participants were aimed to feel that they really earned the money they received. A question was asked of 20 people who were selected randomly from the acquisition group, indicating their donation needs in which identifiable victims were described. In addition, 10 randomly selected among these 20 people were asked these questions with a "loss-frame", while the other 10 people were asked the same questions with a "benefit-frame". The other 20 participants of the group were asked a question indicating the donation needs in which statistical victims were described. Again, the same question was asked in the form of earnings, while the other 10 people were asked in the loss-frame, while 10 of them were chosen randomly. Basically, the participants were asked how much of the money they would donate with the amount of money they had just gained from the math game. It was also emphasized that they had the right to refuse to donate.

The participants in the second group of the study were named as "grant group". There were also 40 participants in that group and the same questions were asked exactly as in the first group. The only difference between the groups was that the grant group was asked simple math questions and 10 TL was given immediately without checking the correct answers. It was not concealed from the participants that the math questions were not evaluated. In this way, we had them know that 10 TL was granted to them.

Schimmer 3 GSR unit was used to monitor the participants' skin conductivity responses. Two silver electrodes were positioned on the index and the middle finger of the hand that the participant did not use predominantly. The participant warned to stay still during the experiment. The room temperature was kept constant at 220 C and a completely quiet environment was provided. In

this way, environmental factors that would negatively affect the GSR data were prevented.

The data collected from the experiment were categorized as seen in the following titles:

- Participant Groups: Acquisition group and grant group
- Victim identification: Identifiable victim and statistical victim
- Framing Method: Loss -frame and benefit-frame
- Obtained amount: The amount of money that the participants earn or receive as a grant after simple mathematics questions (0-10 TL in the acquisition group, while it is 10 TL for all participants in the grant group.)
- Donation amount: The amount expressing how much of the money the participant donate during the experiment.
- Donation ratio: The ratio of donation amount to the amount obtained
- GSR: Stres arousal (μS)

The hypotheses were organized according to this reporting are as follows:

H1= The donated amount significantly differs between acquisition and grant groups.

H2= The donation ratio significantly differs between acquisition and grant groups.

H3= The donated amount significantly differs in terms of identifiable and statistical victims.

H4= The donation ratio significantly differs in terms of identifiable and statistical victims.

H5= The donated amount significantly differs between loss-frame and benefit-frame.

H6= The donated ratio significantly differs between loss-frame and benefit-frame.

H7= Stress arousal level significantly differs between acquisition and grant groups.

H8= Stress arousal level significantly differs in terms of identifiable and statistical victims.

H9= Stress arousal level significantly differs between loss-frame and benefit-frame.

6. Results

Statistical analysis was conducted via SPSS Version 22 package program. Kolmogorov Smirnov test gave the result that the data did not show normal distribution. Accordingly, analyzes were continued with non-parametric tests. The confidence level of the analyzes was accepted as 95% and interpreted at 5% significance level.

Mann Whitney U Test was applied for the hypotheses and the results are reported in the Table 1.

Table 1. Statistical Analysis Results

	GROUP	Mean	Mean Rank	Sum of Ranks	U	z	р
	ACQUISITION GROUP	3,63	35,18	1407	587	-2,08	0,038
Ę	GRANT GROUP	4,75	45,83	1833	307	,	0,050
IOU	IDENTIFIABLE VICTIMS	4,97	48,73	1949	471	-3,21	0,001
D AIV	STATISTICAL VICTIMS	3,4	32,28	1291	7/1		0,001
A TE	BENEFIT-FRAME	3,42	33,11	1324,5	505	-2,88	0,004
DONATED AMOUNT	LOSS-FRAME	4,95	47,89	1915,5	303		0,004
	ACQUISITION GROUP	0,55	44,96	1798,5	622	-1,73	0.083
	GRANT GROUP	0,47	36,04	1441,5	022		0,083
ATIC	IDENTIFIABLE VICTIMS	0,6	49,75	1990	430	-3,59	0,000
N. R.	STATISTICAL VICTIMS	0,41	31,25	1250	430	-3,39	0,000
ATIC	BENEFIT-FRAME	0,41	31,16	1246,5	427	-3,63	0.000
DONATION RATIO	LOSS-FRAME	0,61	49,84	1993,5	721	-5,05	0,000
	ACQUISITION GROUP	645434,3	53,69	2147,5	273	-5,08	0.000
STRESS AROUS AL	GRANT GROUP	128524,6	27,31	1092,5	213	-5,00	0,000

IDENTIFIABLE VICTIMS	590345,4	53,73	2149	271	-5.09	0.000
STATISTICAL VICTIMS	-73485,72	27,28	1091	271	2,05	-,0
BENEFIT-FRAME	-68969,75	31,2	1248	428	-3.58	0.000
LOSS-FRAME	584929,5	49,8	1992	-=-	-,-0	-,0

As seen in the table xx the H1 hypothesis was accepted. So the donated amount differs between donor and grant groups. Accordingly, the average donation amount of the participants in the grant group (Mean = 4.75) was significantly higher than the average of the donation amount (Mean = 3.63) of the participants in the acquisition group (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40) = 587.00, z = -2.07, p < .05).

The differentiation of identifiable victims and statistical victims in terms of the donated amount may also be seen in the same table. According to the analysis confirming the H3 hypothesis, the identifiable victims (Mean = 4.97) got significantly more donations than the statistical victims (Mean = 3.40) (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40). The H5 hypothesis was also accepted. Accordingly, more donations were collected in cases of loss-frame conditions (Mean = 4.95) than benefit-frame conditions (Mean = 3.42) (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40) = 504.50, z = -2.88, p < .05).

It was determined that the donation ratio calculated by proportioning the donated amount to the income obtained did not differ between the acquisition and grant groups (p> .05). Therefore, the H2 hypothesis was rejected. However, a significant difference was found between identifiable victims and statistical victims at the donation ratio and the H4 hypothesis was accepted. Accordingly, donations made to identifiable victims (Mean = .60) are proportionally higher than donations made to statistical victims (Mean = .41) (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40) = 430.00, z = -3.593, p < .05). H6 hypothesis was also accepted. Accordingly, the donation requests (Mean = .61) to which loss-frame was applied are higher than the donation requests (Mean = .41) to which benefit-frame was applied (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40) = 426.50, z = -3.627, p < .05).

Finally, according to the GSR results, which represents the stress levels of the participants, significant differences were found in terms of both the participant groups, victim identification and framing method. In terms of the participant group, the stress levels of the participants in the GSR results acquisition group (Mean = 645434,32) were higher than the participants in the grant group (Mean = -128524,62) (U (NKacquisitiongroup = 40, Ngrantgroup = 40) = 272.500, z = -5.076, p <.05). This indicates that individuals in the acquisition group were exposed to more stress when donating. The level of stress was lower in the participants

in the grant group. According to the results, the H7 hypothesis is confirmed. From the point of view of the participant group, it was determined that the participants were exposed to more stress in donations to the detectable victims (Mean = 590345.42) than the statistical victims (Mean = -73485.72) (U (NK_{acquisitiongroup} = 40, N_{grantgroup} = 40) = 271.00, z = -5.091, p <.05). Accordingly, the H8 hypothesis was accepted. Lastly, in terms of the framing method, it was seen that the participants were exposed to more stress in the demand requests presented with the loss framing (Mean = 584929,45) compared to the demands presented with the benefit framing (Mean = -68969,75). This result shows us that the H9 hypothesis was also accepted (U (NKacquisitiongroup = 40, N_{grantgroup} = 40) = 428.050, z = -3.580, p <.05).

7. Discussion

The results of Kogut and Ritov (2005), proves that people tend to donate more to identifiable victims than to victims that have not been identified and remained just as statistical data. The researchers state that if an identified victim and a group of identified victims are mentioned, an identified victim gets more donation than the identified victim group. But oppositely if an unidentified victim and a group of unidentified victims mentioned then the victim group get more donations. In other words, the donation to a single victim among identified victims may be higher than the donation to a group of victims. On the other hand, if victims are unidentified (statistical victims); donation to a single victim is lower than than the donation to a group of victims. These results are consistent with the studies showing that more donations were made to identifiable victims in terms of donation amount. Accordingly, our research, when a choice was made between an identifiable victim and an identifiable group of victims the participants wanted to donate more to a single victim. A similar study conducted by Schelling in 1968, reveals that people tend to donate more to identifiable victims when it gets to the point to save a human being's life. Similar results were also obtained by Small and Loewenstein (2003a, 2003b). In that study, a similar result was obtained between identifiable victims and statistical victims. Accordingly, identifiable victims trigger more emotional arousal than to the statistical victims. GSR results also support that statement. In our study in the case of identifiable victims, participants' stress levels significantly increased to the other group. This stress-related arousal can be explained by the emotional responses cited in both Small and Loewenstein's work. In other words, the participants showed more emotional reactions

to identifiable victims. The study briefly shows that the decision to donate has both cognitive and emotional sub-dynamics. It is obvious that the importance of using all the relevant elements together in the donation campaigns established in order to create value either for a single person or for the whole population, to reproduce by sharing the existing wealth with others and to achieve global prosperity.

References

- 1. Amos, O. M. (1982). Empirical analysis of motives underlying individual contributions to charity. Atlantic Economic Journal, 10(4), 45-52.
- Anik, L., Norton, M. I., & Ariely, D. (2014).
 Contingent match incentives increase donations. Journal of Marketing Research, 51(6), 790-801.
- 3. Anjum, G., & Gueth, W. (2019). Becoming generous and respecting honor: An experiment based on donation and trust-game with multiple trustees. IBA Business Review, 14(2).
- 4. Baker, C. L., Jara-Ettinger, J., Saxe, R., & Tenenbaum, J. B. (2017). Rational quantitative attribution of beliefs, desires and percepts in human mentalizing. Nature Human Behaviour, 1(4), 1-10.
- 5. Bakker, J., Pechenizkiy, M., & Sidorova, N. (2011, December). What's your current stress level? Detection of stress patterns from GSR sensor data. In 2011 IEEE 11th international conference on data mining workshops (pp. 573-580). IEEE.
- 6. Batson, C. Daniel, Janine L. Dyck, J. Randall Brandt, Judy G. Batson, Anne L. Powell, M. Rosalie McMaster, and Cari Griffitt (1988), "Five Studies Testing Two New Egoistic Alternatives to the Empathy-Altruism Hypothesis," Journal of Personality and Social Psychology, 55 (July), 52-77.
- 7. Bekkers, R., & Wiepking, P. (2011). A literature review of empirical studies of philanthropy: Eight mechanisms that drive charitable giving. Nonprofit and voluntary sector quarterly, 40(5), 924-973.
- 8. Bennett, R. (2003). Factors underlying the inclination to donate to particular types of charity. International Journal of Nonprofit and Voluntary Sector Marketing, 8, 12-29.
- 9. Bruch, E., & Feinberg, F. (2017). Decision-making processes in social contexts. Annual review of sociology, 43, 207-227.
- 10. Cialdini, R. B., Brown, S. L., Lewis, B. P., Luce, C., & Neuberg, S. L. (1997). Reinterpreting the empathyaltruism relationship: When one into one equals oneness. Journal of Personality and Social Psychology, 73, 481–494. 11. Cuesta, U., Martínez-Martínez, L., & Niño, J. I. (2018). A case study in neuromarketing: Analysis of the

- influence of music on advertising effectivenes through eyetracking, facial emotion and GSR. European journal of social science education and research, 5(2), 73-82.
- 12. Çarkoğlu, A., & Aytaç, S. E. (2016). Individual giving and philanthropy in Turkey. Istanbul: Third Sector Foundation of Turkey.
- 13. Fisher, R. J., & Ackerman, D. (1998). The effects of recognition and group need on volunteerism: A social norm perspective. Journal of consumer research, 25(3), 262-275.
- 14. Hastie, R., & Dawes, R. M. (2009). Rational choice in an uncertain world: The psychology of judgment and decision making. Sage Publications.
- 15. Havens, J. J., O'Herlihy, M. A., & Schervish, P. G. (2006). Charitable giving: How much, by whom, to what, and how. The nonprofit sector: A research handbook, 2, 542-567.
- 16. Hutchinson, M., Hurley, J., Kozlowski, D., & Whitehair, L. (2018). The use of emotional intelligence capabilities in clinical reasoning and decision-making: A qualitative, exploratory study. Journal of clinical nursing, 27(3-4), e600-e610.
- 17. Kaufmann, H. (1970). Aggression and altruism: A psychological analysis. Holt McDougal.
- 18. Keegan, B. J., & Rowley, J. (2017). Evaluation and decision making in social media marketing. Management Decision.
- 19. Kılıçalp Iaconantonio, S. (2013) Bireysel Bağışçılar için Rehber ve İlham Veren Bağışçı Öyküleri, İstanbul: Türkiye Üçüncü Sektör Vakfı (TÜSEV)
- 20. Kogut, T., & Ritov, I. (2005). The singularity effect of identified victims in separate and joint evaluations. Organization Behavior and Human Decision Process, 97, 106–116.
- 21. Kucher, K., Cernea, D., & Kerren, A. (2016, March). Visualizing excitement of individuals and groups. In Proceedings of the 2016 EmoVis Conference on Emotion and Visualization (pp. 15-22).
- 22. Kurniawan, H., Maslov, A. V., & Pechenizkiy, M. (2013, June). Stress detection from speech and galvanic skin response signals. In Proceedings of the 26th IEEE International Symposium on Computer-Based Medical Systems (pp. 209-214). IEEE.
- 23. Liao, Z., Jiang, L., & Wang, Y. (2017, May). A quantitative measure of regret in decision-making for human-robot collaborative search tasks. In 2017 American Control Conference (ACC) (pp. 1524-1529). IEEE.
- 24. Liu, W., & Aaker, J. (2008). The happiness of giving: The time-ask effect. Journal of consumer research, 35(3), 543-557.

- 25. Moll, J., Krueger, F., Zahn, R., Pardini, M., de Oliveira-Souza, R., & Grafman, J. (2006). Human frontomesolimbic networks guide decisions about charitable donation. Proceedings of the National Academy of Sciences, 103(42), 15623-15628.
- 26. Mosier, K. L., & Skitka, L. J. (2018). Human decision makers and automated decision aids: Made for each other?. In Automation and human performance (pp. 201-220). Routledge.
- 27. Nguyen, D. D., DeVita, D. A., Hirschler, N. V., & Murphy, E. L. (2008). Blood donor satisfaction and intention of future donation. Transfusion, 48(4), 742-748.
- 28. Nofsinger, John. "The Psychology of Investing (Pearson Series in Finance)" 3th Edition", 2011
- 29. O'Carroll, R. E., Dryden, J., Hamilton-Barclay, T., & Ferguson, E. (2011). Anticipated regret and organ donor registration—A pilot study. Health Psychology, 30(5), 661.
- 30. Ranganathan, S. K., & Henley, W. H. (2008). Determinants of charitable donation intentions: a structural equation model. International journal of nonprofit and voluntary sector marketing, 13(1), 1-11.
- 31. Rubenking, B. (2019). Emotion, attitudes, norms and sources: Exploring sharing intent of disgusting online videos. Computers in Human Behavior, 96, 63-71.
- 32. Schelling, T. C. (1968). The life you save may be your own. In S. Chase (Ed.), Problems in public expenditure analysis. Washington, DC: The Brookings Institute.
- 33. Small, D. A., & Loewenstein, G. (2003a). Helping a victim or helping the victim: altruism and identifiability. Journal of Risk and Uncertainty, 26(1), 5–16.
- 34. Small, D. A., & Loewenstein, G. (2003b). The devil you know: the effects of identifiability on punitiveness. Manuscript.
- 35. Small, D. A., Loewenstein, G., & Slovic, P. (2005). Can insight breed callousness? The impact of learning about the identifiable victim effect on sympathy. Unpublished manuscript.
- 36. Smith, J. R., & McSweeney, A. (2007). Charitable giving: The effectiveness of a revised theory of planned behaviour model in predicting donating intentions and behaviour. Journal of Community & Applied Social Psychology, 17(5), 363-386.
- 37. Sollberger, S., Bernauer, T., & Ehlert, U. (2016). Stress influences environmental donation behavior in men. Psychoneuroendocrinology, 63, 311-319.
- 38. Solnais, C., Andreu-Perez, J., Sánchez-Fernández, J., & Andréu-Abela, J. (2013). The contribution of neuroscience to consumer research: A conceptual framework and empirical review. Journal of Economic Psychology, 36, 68-81.

- 39. Steuer, R. E., & Na, P. (2003). Multiple criteria decision making combined with finance: A categorized bibliographic study. European Journal of operational research, 150(3), 496-515.
- 40. Tversky, A., & Kahneman, D. (1981). The framing of decisions and the psychology of choice. science, 211(4481), 453-458.
- 41. Verhaert, G. A., & Van den Poel, D. (2011). Empathy as added value in predicting donation behavior. Journal of Business Research, 64(12), 1288-1295.
- 42. Villarejo, M. V., Zapirain, B. G., & Zorrilla, A. M. (2012). A stress sensor based on Galvanic Skin Response (GSR) controlled by ZigBee. Sensors, 12(5), 6075-6101.
- 43. Webb, D. J., Green, C. L., & Brashear, T. G. (2000). Development and validation of scales to measure attitudes influencing monetary donations to charitable organizations. Journal of the academy of marketing science, 28(2), 299-309.
- 44. Woo, K. T. (1992). Social and cultural aspects of organ donation in Asia. Annals of the Academy of Medicine, Singapore, 21(3), 421-427.
- 45. Yu, H., Shen, Z., Miao, C., Leung, C., Chen, Y., Fauvel, S., ... & Yang, Q. (2017). A dataset of human decision-making in teamwork management. Scientific data, 4(1), 1-12.
- 46. Zimny, G. H., & Weidenfeller, E. W. (1962). Effects of music upon GSR of children. Child Development, 891-896.

EFFECTS OF EMPLOYEE MOTIVATION ON ORGANIZATIONAL PERFORMANCE AT ETHIOPIAN TELECOM SOUTH WEST REGION JIMMA



Wolde SHIFERAW DUBAGUS, MA 10 1*

Eminent NEGASH, MA. D 2

Aregu ASMARE HAILU, MA. 60 3

Shimekit KELKAY ESHETE, MA. 10 4

- 1 Jimma University, Collage of Business and Economics, Management Department, woldeshif@gmail.com, *Correspondent Author
- ${\it 2 Jimma University, Collage of Business \ and \ Economics, Management \ Department, \ negashemnet @gmail.com.}$
- 3 Jimma University, Collage of Business and Economics, Management Department, areguasmare2@gmail.com
- 4 Jimma University, Collage of Business and Economics, Hospitality and Tourism Management Department, skelkay@gmail.com

Article history:

Accepted 02 July 2020 Available online 31 August 2020

Keuwords:

Ethiopia,

Employee,

Training,

Promotion, Teamwork,

Employee Benefit,

Organization Performance,

Working Environment.

Abstract

The study examined the effects of employee motivation on organization performance of crews in Ethio telecom South West Region Jimma. The data were collected through self-administered questionnaire from 229 respondents and 219 were returned. Both primary and secondary sources of data were consumed in this study. The quantitative research approach was implemented and simple random sampling technics were adopted to provide equal chances for respondents. Exploratory research design and data was analyzed using correlation and regression analysis. The correlation analysis indicates that there was a positive relationship between the independent variables and dependent variables. The result of the regression implies that the independent variables have accounted for 78.1% of variance in the dependent variable. Based on the outcome of the study, the researcher recommend that, it is better if the company focuses on employee motivation factors, mostly Promotion, employee benefit, teamwork and training so as to improve its performance.

1. Introduction

Employee motivation is one of the rules of managers of growth efficient task control between personnel in businesses. A motivated employee is responsive of the precise goals and goals he or she ought to achieve consequently he or she directs its attempt in that course. Motivation formulates an enterprise greater successful because provoked employees are constantly seeking out progressed practices doing more. Getting employees to do their satisfactory performance even in energetic circumstances is one of the personnel most stable and greasy demanding situations and this can be made possible over motivating them. Motivation principle is concerned with what determines purpose directed behavior. Those wishes, how the fulfillment of goals and or comments on their success reinforces a successful behavior and the way perception in a single's capacity to perform a specific task will actuate behavior that is

anticipated to achieve the successful overall performance of that challenge (Armstrong, 2006).

Factors affecting employee's motivation, nobody work for free, nor need to them. Employees need to earn affordable revenue and fee, and personnel choice their people to sense that is what they're getting (Houran. J, 1974). Money is the fundamental incentive, no other incentive or motivational technique comes even close to it to appreciate to its influential cost (Sara et al., 2004). It has the supremacy to magnetize, preserve and motivate people in the direction of better performance. Frederick Taylor and his scientific associate defined money because the most essential issue in motivating the economic workers to acquire extra productivity (Adeyinka et al., 2007). Studies have suggested that a reward is now reason for satisfaction of the employee which directly affects the performance of the employee (Kalimullah et

al., 2010). The rewards are management tools that optimistically make a contribution to company's effectiveness by using influencing character or organization conduct.

All organizations use pay, promotion, bonuses or different types of rewards motivate and inspire high level performances of employees (Reena et al., 2009). To use salaries as a motivator effectively, managers need to recall revenue systems which ought to include significance. Organization attach to every job, payment in keeping with overall performance, non-public or special allowances, fringe advantages, pensions and so on (Adeyinka et al., 2007). And if you want them to believe you and do things for you and the institute, they want to be inspired (Baldoni. J, 2005). Theories imply that leader and fans raise one another to better stages of morality and motivation (Rukhmani. k, 2010). Motivation is solely and really a management behavior. It stems from wanting to do what is right for people in addition to for the organization. Management and motivation are dynamic techniques (Baldoni. J, 2005).

Including up, they work with a feeling of duty and prefer advantages of the organization to have benefit for themselves (Yazdani, B.O. et al., 2011). Trust is defined as the belief of one approximately others, selection to behave based on speech, conduct and their choice (Hassan et al., 2010 If a business enterprise wants to improve and be successful, agree with performs a massive function so it should continually be preserved to make certain an organization's existence and to enhance workers motivation (Annamalai. T, 2010). It is able to make intrapersonal and interpersonal results and influence at the relations, interior and out the employer (Hassan et al., 2010). Regardless of how technologically advanced an enterprise can be, excessive productivity depends on the level of motivation and the effectiveness of the group of workers. So a personnel training is an indispensable method for motivating people. One way managers can instigate motivation is to present suitable information on the judgments of their actions on others (Adeyinka et al., 2007). Research has shown that there are a variety of significant factors which determines the degree of employee motivation. Consequently, managers are crucial to the performance and success of the organization.

Managers are highly involved in the process of modeling or reshaping the organizational structure in a manner that inspires and increases the level of employee motivation. It is widely known that employees are motivated and stay within an organization for as long as they feel that the organization is able to provide an opportunity for self-actualization and personal development. The fulfillment of such conditions contributes to an improvement of the employee's willingness to strive toward successfully achieving the organizations goals and objectives (Pereira, 2012). Research shows that job satisfaction is positively related to job performance, in addition low motivation and low job satisfaction has negatively affected organizational performance. Therefore, an employee motivation is likely to have effects on the outcome of care and performance of organizations.

2. Literature Review

According to Butkus & Green (1999), motivation is originated from the word "motivate", means to move, push or impact to continue for satisfying a want. Motivation is a fixed of publications worried with a kind of energy that enhances overall performance and directs closer to engaging in a few definite objectives (Kalimullah et al., 2010). Helliegel, Slocum, and Woodman describe motivation as the force acting on or within a person that causes the man or woman to act in a, goal-directed manner (Hellriegel, 1992). Daft and Marcic explain that motivation refers to the forces either within or outside to someone that provoke passion and persistence to pursue a positive path of movement (Daft, 2004). Bartol and Martin (1998). Consider motivation is an effective tool that boosts conduct and triggers the tendency to preserve. In different expressions, motivation is an internal force to satisfy an unsatisfied want and to attain a certain goal or objective.

According to (Bartol & Martin et al., 1998) motivation is a physiological or psychological want that stimulates an overall performance set via an objective further more motivation has something to do with someone's behavior, a reason of conduct, or the motives of individual conduct, and the reasons of man or woman behaviors might also vary because of one of a sympathetic person desires. The perception of the criteria to managers is that they need to first discover the personality differences and their needs and develop right fashions to inspire employees by means of satisfying those different needs to achieve organizational targets.

Consequently, managers need to not limit themselves to at least one specific motivational component, as an alternative, they should consider numerous motivational fashions to grasp the different wishes of employees (Kim et al., 2006). It additionally describes the way to inspire humans to apply their efforts and abilities to achieve the business enterprise's desires in addition to satisfy their own needs (Armstrong, 2001).

2.1. Motivation Theories

Employee motivation is an intricate and sophisticated subject; however, modern managers must face and deal with this topic to obtain organizational success. To enhance understanding of employee motivation, managers must recognize the requirements of employee motivation, its concepts, and differences in individual needs. According to (Kim et al., 2006) this understanding of the employee motivation process requires a systematic approach, and managers must realize that employee motivation and its process are there to motivate their employees. Therefore, employee input must be valued and included throughout this process Maslow was a psychologist who proposed that within every person is a hierarchy of five needs (Coulter, 2002).

Maslow argued that each level in the need's hierarchy must be substantially satisfied before the next need becomes dominant. An individual moves up the need's hierarchy from one level to the next. In addition, Maslow separated the five needs into higher and lower levels. Physiological and safety needs were considered lower-order needs; social, esteem, and self-actualization needs were considered higher-order needs. Lower-order needs are predominantly satisfied externally while higher-order needs are satisfied internally (Coulter et al., 2002).

Another classic Motivational theory is Douglas McGregor's Theory X and Theory Y. He is best known for proposing two assumptions about human nature. Very simply, Theory X is a negative view of people that assumes workers have little ambition, dislike work, want to avoid responsibility, and need to be closely controlled to work effectively. Theory Y is a positive view that assumes employees enjoy work, seek out and accept responsibility, and exercise self-direction. McGregor believed that Theory Y assumptions should guide management practice and proposed that participation in decision making; responsibility and challenging jobs and good group relations would maximize employee motivation. (Coulter et al., 2002). Frederick Herzberg's two-factor theory (also called motivation hygiene theory) proposes that intrinsic factors are related to job satisfaction, while extrinsic factors are associated with job dissatisfaction. On the other hand, when they were dissatisfied, they tended to cite extrinsic factors arising from the job context, such as company and administration, supervision, interpersonal policy relationships, and working conditions (Coulter et al., 2002).

The most comprehensive explanation of how employees are motivated is a Victor Vroom's expectancy theory. It includes three variables or relationships invoked expectancy, instrumentality, and valence (Coulter et al., 2002). According to Vroom (1969) expectancy theory, that an employee will be motivated to apply a high level of effort when he or she trusts that effort will lead to a good performance appraisal, followed by organization rewards such as promotion which later satisfy personal goals.

2.2. Intrinsic Motivation

Deci and Ryan (1985) suggested that intrinsic motivation is based on the needs to be competent and self-determining (that is, to have a choice). Intrinsic motivation can be enhanced by assigning suitable job or role design. According to (Katz, 1964) the job itself must provide sufficient variety, sufficient complexity, sufficient challenge, and sufficient skill to engage the abilities of the worker.

2.3. Extrinsic Motivation

Extrinsic motivation occurs when things are done to or for people to motivate them. These include rewards, such as incentives, increased pay, praise, or promotion; and punishments, such as disciplinary action, withholding pay, or criticism. Extrinsic motivators could have an immediate and powerful effect but will not necessarily last long. The intrinsic motivators, which are concerned with the quality of working life (a phrase and movement that emerged from this concept) are likely to have a deeper and longer-term effect because they are inherent in individuals and their work and not imposed from outside in such forms as incentive pay and summarized in Table below The most significant ones are those concerned with expectancy, goal setting and equity, which are classified as process or cognitive theories Armstrong(2009).

Salary is very important for everyone. Wages must first be received fairly (Wheelhouse, 1989). As (Bohlander, Snell and Sherman, 2001, cited in Petcharak, 2002, p. 22) argued pay is a major consideration in human resource management because it provides tangible reward for employee's service. According to (Wentzel & Wigfield 2009). the connection between worker motivation and employee productivity is not always well established. However, the consensus is that motivation ends in growth of productiveness in the long run. According to (Sara, 2004). major factors that affects employee performances are fair pay, bonus, reward, promotion, and training.

Dessler (2008) presented that promotion is said to be came about employee makes a shift inside the upward direction within organizational hierarchy and movements to a place of more duty and responsibility. (Armstrong et al., 2009) argue that a promotion coverage could maximizes the company's goal by enhancing employee's motivation. According to Milkovich (2011). employee benefit has its own impact on company performance as well as individual's productivity. High-performance teams are characterized by a deep sense of commitment to their growth and success (Armstrong et al., 2009). Thus, teamwork plays a vital role on employee performance and organization productivity. Centers and Bugental (1970) discovered that at better occupational level, "motivators" or

intrinsic activity elements were extra valued, while at lower occupational levels "hygiene factors" or extrinsic job factors had been extra valued. As many researches additionally suggest those elements have significant effect on the task performance of employees. According to Negash, Zewude, Megersa, (2014). there was significant and positive association between compensation and work motivation. Inconclusion different variable and statistical measurements had been applied and tested by several researchers.

2.4. Conceptual Framework

From the literature collected for the study the factors that increases employee performance are training, promotion, employee benefits, teamwork and working environment which leads to better organization productivity. The Researcher was provided detailed information on the application and results of motivational factors, so that it can justify the association or the connection of outcomes of employee motivation on organization performances.

The below Conceptual model was used in this study.

Figure 1. Conceptual model of study

Independent Variable

Employee Motivation

Dependent Variable

Organizational Performance i.e

- Company profitability
- Retaining employee
- Productivity
- Customer satisfaction

Source: Constructed from review literature

3. Materials and Methods

This study was employed descriptive and exploratory. It is descriptive since descriptive data were collected through a questionnaire and it is also exploratory because the researcher would explore the effects of motivation on organization performance so as to meet the research objective. Both primary and secondary types of data were collected. The primary data was collected by using structured questionnaires. The Secondary data was collected from published journal articles, human resource books, organizational manuals, and any relevant secondary sources. The populations of the study were the entire region professional employee starting from regional management level to lower level employees of the company. Currently, there were total of 540 employees in the region based on data taken form the regional human resource department from the total of 540 employees 229 samples were drawn based on Taro Yamane (1967) formula.

$$\mathbf{n} = \frac{\mathbf{N}}{\mathbf{1} + \mathbf{N}(\mathbf{e})^2}$$

Where n is the sample size N is the total population size and e is the level of precision. By using above formula we obtain sample size $n = \frac{540}{1+540(0.05)^2} = 229$

The researchers used simple random sampling technique to distribute the survey questionnaires to acquire participant's perception towards the effects of employee motivation on organizational performance.

In order to analyze the data gathered and come up with answers to the question raised exploratory methods was employed. The collected questionnaires were analyzed statistically with the help of SPSS (statistical package for social science) version 20. Moreover, it was summarized by frequencies, percentages, means, and standard deviations. Determination of the relationship between the identified independent and dependent variables, the researcher use Pearson's correlation coefficient and to show the extent of variation in the dependent variable that was explained by the independent variable, the data was computed by regression analysis so as to answer the research questions. According to Creswell (2009) criteria for choosing statistical testes when the number of independent variable would be more than two and dependent variable is one multiple regression was statistically tested. In this regard the following multiple regression models were used to determine the variation or qualitative associations between the variables as follows:

$$Y = \alpha + \beta 1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 X_5 + e$$

Where: Y dependent variable = Organization performance, α = Constant, β_1 =is the coefficient of Employee benefit, β_2 =is the coefficient of Promotion, β_3 =is the coefficient of trainings, β_4 =is the coefficient of Team work, β_5 =is the coefficient of working condition.

When β_1 = is the change in y for one unit change in X_1 and β_2 = is the change in y for one unit change in X_2 , β_3 = is the change in y for one unit change in X_3 , β_4 = is the change in y for one unit change in X_4 , β_5 = is the change in y for one unit change in X_5 . X_1 = Employee benefit, X_2 = Promotion, X_3 Training, X_4 Team work, X_5 Working environment and e = is the error term.

4. Result and Discussions

4.1. Descriptive Statistics of Employee Motivation and Organization Performance

As described in the research methodology, Likert scale was used to measure the effect of motivational factors for increasing organizational performance. The researcher has revealed employee's insight towards motivational factors that influences company productivity.

Table 1. Employee motivation and organization performances

Desc	Descriptive statistics							
No	Variables	N	Mean	Standard Deviation				
1	Employee Benefit	219	2.85	1.42				
2	Working environment	219	2.82	1.43				
3	Promotion	219	3.13	1.42				
4	Training	219	3.12	1.39				
5	Teamwork	219	3.04	1.47				
6	Organization performance	219	3.09	1.41				

Source: Own filed survey (2018)

As shown in the above table 1 statistics, results were sorted based on their occurrence in the questionnaires. The mean value of an employee benefit package is=2.85 (SD=1.42) this shown that, the majority of the respondents were averagely satisfied with the benefit packages of the company. This indicates that employee benefit has impact employee performance. The average mean value of working environment is=2.82 (SD=1.43) this indicates that employees of the organization were also averagely satisfied with the working environments in which they were currently working on. This indicates that the working environment has an effect on employee performances.

As indicated in the above table the mean value of promotion is = 3.13 (SD=1.42) from this we noticed that average of employees were satisfied and motivated when they were got a promotion opportunity and fair promotion policy and procedure within the company. From this we deduce that promotion is the most important factor that motivates and affects the employees of the company. Accordingly, the average mean value of training is = 3.12 (SD=1.39) which is shown on the table above indicates that average of employees were satisfied and motivated by the training given to them by the company and believed that training is important to advance their performance, this also leads to increase the performance of the organization as well. The other determinants that affect employee motivation is teamwork which was shown in the table 1 above and the mean value is = 3.04

(SD=1.47) this shows that an average of the organizations crews motivated when they were working in teams, and believed that teamwork increases their productivity, this could increase the company's performance.

As illustrated in the above table 1 the respondents were requested to rate or select the effects of employee motivation on the performance of the company and replied that the mean value is= 3.09 (SD=1.41) this indicates that an average of the respondents were agreed that employee motivation has an effect on organizational performance in terms of profitability, employee retention, productivity and customer satisfaction. Therefore, from the above paragraphs one can reveal that predictor variables such as employee benefit, working environment, promotion, training and teamwork could have averagely affects the dependent variable that is organizational performance.

4.2. Correlation Analysis

In this section, the direction and degree of the strength of the relationship among the variables were examined, it is possible to determine the correlation among all scopes of the independent variables (Employee benefits, working environment, promotion, training and teamwork) and the dependent variables (organization performance) were used to analyze the strength, direction and statistical significance of the relationship as indicated table 2 below.

The correlation results provide initial indications for further analysis. In this study Bivariate Pearson Coefficient (r) was used to determine the relationship between the effects of motivation and organization performance by using a two-tailed test of statistical significance at the level of 95% significance, P< 0.05. The results in Table 2 show that correlation between all variables and it summarizes the values of the Pearson coefficient of correlation and their significance. It is quite apparent from the results that organizational performance is very strong and positive correlated with promotion as the value of Pearson Correlation Coefficient .807 and the relation is significant at 95% confidence level (p<. 01).

The relationship between organization performance and employee benefit is also positive and strongly significant as Pearson Correlation Coefficient is .664 and p value is less than .01 followed by the relationship between organization performance and teamwork which is positive and strongly significant as Pearson Correlation Coefficient is .606 and p value is less than .01. But the relationship between training and working environment and organization performance is positive and moderately significant as Pearson Correlation Coefficient is .598 and .504 respectively and p value is less than .01.

Consequently, all five independent variables are positively and significantly correlated with organization performance. Based on

the results, one can argue that employee motivation has an effect on organizational performance.

Table 2. Pearson correlation analysis for independent and dependent variables

Correlation	S						
		EMPB	WENV	PR	TR	TMW	ORGP
	Pearson Correlation	1	.373**	.553**	.350**	.520**	.664**
EMPB	Sig. (2-tailed)		.000	.000	.000	.000	.000
	N	219	219	219	219	219	219
	Pearson Correlation	.373**	1	.420**	.471**	.376**	.504**
WENV	Sig. (2-tailed)	.000		.000	.000	.000	.000
	N	219	219	219	219	219	219
	Pearson Correlation	.553**	.420**	1	.499**	.478**	.807**
PR	Sig. (2-tailed)	.000	.000		.000	.000	.000
	N	219	219	219	219	219	219
	Pearson Correlation	.350**	.471**	.499**	1	.330**	.598**
TR	Sig. (2-tailed)	.000	.000	.000		.000	.000
	N	219	219	219	219	219	219
	Pearson Correlation	.520**	.376**	.478**	.330**	1	.606**
TMW	Sig. (2-tailed)	.000	.000	.000	.000		.000
	N	219	219	219	219	219	219
	Pearson Correlation	.664**	.504**	.807**	.598**	.606**	1
ORGP	Sig. (2-tailed)	.000	.000	.000	.000	.000	
	N	219	219	219	219	219	219

^{**.} Correlation is significant at the 0.01 level (2-tailed). EMPB=Employee benefit, WENV=Working environment, PR=Promotion, TR=Training, TMW=Teamwork, ORGP=Organization performance.

4.3. Regression Analysis

Regression analysis supports in order to measure the relative strength of the independent variable on the dependent variable. Thus, in order to examine the statistically significant effect of the independent variables on the dependent variable, multiple regression analysis was used. According to Kothari (2004), multiple regression analysis applied when the researcher has one dependent variable, which is supposed to be a function of two or more independent variables. The objective of this exploration is to make a prophecy about the dependent variable based on its covariance with all the concerned independent variables.

4.3.1. Diagnosis Test

Before applying regression analysis to assess the effect of employee motivation on organization performance, some tests were determined in order to confirm the appropriateness of data to assumptions of regression analysis as follows:

4.3.1.1. Multicollinearity Test

According to Andy field (2013) one way of identifying multicollinearity is by scanning a correlation matrix of the predictor variables. SPSS yields various collinearity diagnostics, one of which is the variance inflation factor (VIF). The VIF shows whether a predictor has a strong linear relationship with the other predictor and tolerance statistics which is the reciprocal of VIF. There is no one best rule that determines the value of VIF but there are some general guidelines: If the largest VIF is greater than 10 then there is cause for concern (Bowerman, O'Connell, & Myers, 1990). If the average VIF is substantially greater than 1 then the regression may be biased (Bowerman & O'Connell, 1990). Tolerance below 0.1 indicates a serious problem. Tolerance below 0.2 indicates a potential problem (Menard, 1995). As indicated in the table 3 below tolerance value of all variables were above 0.5 and variance inflation factor (VIF) less than 2 hence, we conclude that there was no multicollinearity issues exist.

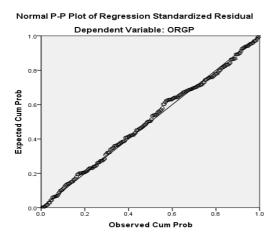
Table 3. Collinearity Statistics summary

Model		Collinearity Sta	atistics
		Tolerance	VIF
	Employee Benefit	.600	1.666
	Working Environment	.698	1.433
[Promotions	.554	1.805
	Trainings	.666	1.502
	Teamwork	.657	1.521

4.3.1.2. Linearity Test

Linearity refers to the degree to which the variation in the dependent variable is related to the variation in the independent variables. To determine whether the relationship between the dependent variable organization performance and the independent constructs employee benefit, working environment, promotion, training and teamwork is linear, so, plots of the regression residuals through SPSS software has been used.

Figure 2. Normal P-P Plots of regression



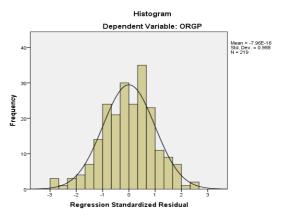
The scatter plot of residuals shows no more variation in the spread of the residuals as you can see from left to right on figure 2 above. This result suggests the relationship we are trying to predict is linear. As a result, the above figure shows the normal distribution of residuals around its mean of zero. Hence the normality assumption is fulfilled as required based on the above figure, it is possible to conclude that the inferences that the researchers would made about the population parameter from the sample were valid.

4.3.1.3. Normality Test

Figure 3 shows the frequency distribution of the standardized residuals compared to a normal distribution. As you can see, although there were some residuals (e.g., those occurring around 0) that are relatively far away from the curve, many of the

residuals are fairly close. Moreover, the histogram is bell shaped which lead to deduce that the residual (disturbance or errors) are normally distributed. Thus, there is no violation of the assumption normally distributed error term.

Figure 3. Histogram



4.3.2. Regression Analysis Result

Table 4. Model Summary

Model Sum	mary ^b			
Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.886ª	.786	.781	.39401
a. Predictor	s: (Constant), Team	work, Training, Workin	g environment, Employee benefit,	Promotion
b. Depender	nt Variable: Organi	zation performance		

Multiple regression result in the above table 4 indicates that employee motivation constructs (Employee benefit, working environment, Promotion, Training and Teamwork) have significant influence on the performance of the organization. The adjusted R2 tells us how much change in the outcome would be accounted for if the model had been derived from the population from which the sample was taken (Field, 2013). In addition, the adjusted R2 gives us the percentage of variation explained by

only the independent variables that actually affect the dependent variable. As a result, the adjusted R2 0.781 revealed that 78.1% of variance in organizational performance can be explained by Employee benefit, working environment, Promotion, Training and Teamwork whereas 21.9% were explained by other factor.

Table 5. Testing for model fit

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	121.247	5	24.249	156.199	.000b
1	Residual	33.068	213	.155		
	Total	154.315	218			

According to (Field, 2013) the ANOVA (analysis of variance) tells us whether the model, overall results in a significantly better degree of prediction of the outcome variable. Similarly, ANOVA indicates the overall fit of the model. Hence, as we seen from table 5 the value of F which is computed by dividing the mean square

of explained data by the mean square of residual data is F(5, 213) =156.199, P<.001 from this one can conclude that the overall model has a better fit.

Sig.

Standardized Coefficients

Table 6. Coefficients^a

Unstandardized Coefficients

		В	Std. Error	Beta	_	
	(Constant)	-1.172	.161		-7.276	.000
	Employee Benefit	.325	.062	.214	5.228	.000
1	Working Environment	.072	.042	.064	1.696	.091
	Promotions	.606	.054	.479	11.249	.000
	Trainings	.217	.043	.195	5.021	.000
	Teamwork	.186	.041	.177	4.535	.000

a. Dependent Variable: Organization Performance

Model

Referenced table 6 shows that standardize beta coefficient, which tell us the unique involvement of each factor to the model. According to George (2003) a large beta value and a small P value (P<.05) revealed the predictor variable has made a significance statistical involvement to the model. On the other hand, a minimum beta value and a maximum p value (P >. 05) Indicate the predictor variable has little or no significant influence of the model. The relative importance of effects of employee motivation (independent variables) in contributing to the variance of the organizational performance (dependent variable) is described by the standardized beta coefficient. The beta value of employee benefit is (beta=.214, P<0.05), working environment (beta=.064, P>0.05), promotions (beta=.479, P<0.05), trainings (beta=.195, P<0.05), and teamwork (beta=.177, P<0.05). Among the independent variables, promotion is more significant and statistically sound and expression. This can be interpreted as every single unit improvement in the promotion will increase organizational performance by 47.9%. Therefore, the promotion has a greater amount of impact than other predictors On the other hand, the working environment has less contribution which is 6.4% of the organization performance. Table 6 also implies that employee benefit, promotions, training and teamwork have a significant influence on organizational performance at 95% confidence level. All employee motivation factors have been included in the formation of the function and detail expression as follows:

 $Y = \alpha + \beta 1X1 + \beta 2X2 + \beta 3X3 + \beta 4X4 + \beta 5X5 + e$ Y = -1.172 + 0.325X1 + 0.606X2 + 0.217X3 + 0.186X4 + 0.072X5 + e

The outcome of this study shows that, except working environment, all variables of employee motivation have a positive and significant effect on organizational performance. From the analysis the co-efficient value of promotion in the organization was 0.606. This means that all things being equal, when the other independent variables (employee benefit, teamwork, training and working environments) are held constant, organization performance would increase by 60.6% if there is a 1-unit improvement in the promotion.

From the analysis the co-efficient value of employee benefit was 0.325. This means that all things being equal, when the other independent variables (promotion, teamwork, training and working conditions) are held constant, organization performance would increase by 32.5% if there is 1-unit improvement in employee benefit package. This was statistically significant (0.00<0.05) i.e. the variable (employee benefit) is making a significant unique contribution to the prediction of the dependent variable (organization performance). Indicated from the analysis the co-efficient value of training was 0.217. This means that all

things being equal, when the other independent variables (promotion, employee benefit, teamwork and working conditions) are held constant, performance would increase by 21.7% if there is 1-unit improvement in training. This was statistically significant (0.00< 0.05) i.e. the variable (training) is making a significant unique contribution to the prediction of the dependent variable (organization performance).

As shown from the analysis the co-efficient value of teamwork was 0.186. This means that all things being equal, when the other independent variables (promotion, employee benefit, training and working conditions) are held constant, performance would increase by 18.6% if there is a 1-unit improvement in teamwork. This was statistically significant (0.00< 0.05) i.e. the variable (teamwork) is making a significant unique contribution to the prediction of the dependent variable (organization performance). Furthermore, from the findings of this study, researchers found out that not all of the variables selected by the researchers have significant effects on organization performances.

From the analysis the co-efficient value of working environment was 0.072. This means that all things being equal, when the other independent variables (promotion, employee benefit teamwork, and training) are held constant, performance would increase by 7.2% if there is 1-unit improvement in the working environment. This was statistically insignificant because it has value more than 0.05 i.e. the variable (working environment) is not making any unique contribution to the prediction of organization performance. From total of five selected variables (employee benefit, promotion, training, and teamwork) have positive unique contribution to organizational performance. Among this promotion has the most unique contributor of all, this supports Vrooms (1969) expectancy theory of motivation that argues, an employee will be motivated to exert a high level of effort that leads to good performance appraisal followed by organization rewards such as promotion which later meets personal goal. On the contrary, the working environment has no significant unique contribution to company performance. Regarding to this it is possible to deduce that promotion and employee benefit contribute more for organizational performance and would be focusing area for the company to inspire its workforce.

5. Conclusion and Suggestions

Depending on the outcome of this study the following conclusions were made. The purpose of this study was to examine the effect of employee motivation on company performance. For any organizations to be productive and successful, having of motivated employees has the most important issue to be emphasized by the organization. Since organizations will be efficient if and only if their employees are motivated and this

could happen among others through having an effective motivation of employees assured by the company.

On employee motivation, it can also be concluded that promotion, employee benefit package, training, teamwork and working environment have an impact on organization performance that also leads to increase productivity and performance of employees of the company. Similarly, promotion, employee benefit, training and teamwork have unique and significant contribution to company performance based on the result of this study. Furthermore, the result shows that employees of the company were averagely agreed with the employee benefit currently provided by the company.

Likewise, the result of this study concludes that employee motivation is very important factors that the region managements needs to focus on to achieve region target or goal as well as to contribute more to company performance. Ignoring this factor could cause to build demotivated employees, which are subject to reduce performance, lower commitment, and lower motivation or even contribute to the lesser productivity of the company. In contrast working environment has least unique effects on company performance in this investigation result which shows that the working environment has an insignificant impact on company performance. In summary, the major finding of this study implies that employee motivation has a positive effect on the Ethio telecom company performance.

Based on the outcomes and conclusions the researchers recommend that the managements of the company need to motivate and encourage their staffs so as to advance their performance. It is important to work closely with HR departments to have promotion opportunities and flexible career development which are highly prioritized by crews as an important motivation factor. Employees who work harder and perform well and meet their targets should be motivated by their respective organizations by giving them a special treatment in terms of incentives like bonus, salary increment, transportation and housing allowances and training programs to induce others to follow their footsteps. Incentives were generally developed to generate employee motivation, satisfaction, and greater performance of any company. In addition, with an effective incentive, employees could gain several social and psychological benefits as a result of improving their purchasing power to meet his or her needs of goods and services. Therefore, it can be concluded that incentives have great potential for improving employee work performance and increasing production efficiency through encouraging individuals or groups to act in a desired and productive way. And also the implementation of teamwork can increase efficiency and encourage employees to work smarter and strongly.

References

- Armstrong. (2001). A Handbook of Human Resource Management Practice. The Bath Press, 155.
- AdeyinkaTella et.al (2007) Work Motivation, Job Satisfaction, and Organizational Commitment of Library Personnel in Academic and Research Libraries in Oyo State, Nigeria
- Annamalai T., Abdullah A. G. K., Alasidiyeen N. J., European Journal of Social Sciences 13(4) (2010) 623-632.
- Appiah. D (2011) the effect of motivation on staff performance in the health services of Ghana. a case study of Komfo Anokye teaching hospital, Kumasi.
- Armstrong (2006) Human resource practices, 11 ed., United Kingdom.
- Bartol, K. M. and Martin, D. C. (1998), Management,
 3rd ed., McGraw Hill, New York, NY, 268-279.
- Baldoni, J., (2005). Motivation Secrets. Great Motivation Secrets of Great Leaders [WWW page]. URL http://govleaders.org/motivation_secrets.html.
- Butkus & Green. (1999), Impact of Employees Motivation on Organizational Effectiveness Business Essay.
- Centers and Bugental (1970), Referenced in Muhammad IQ, Khalid Z, Iqtidar AS. Relationship between rewards and performance in cement industry in Pakistan. Journal of International Academic Research. 2010.
- Coulter, S. P. (2002). Management. New Jersey: Prentice-Hall. Inc.
- 11. Deci, E. L. & Ryan, R. M. (1985). Intrinsic Motivation and Self Determination in Human
- Dessler, G. (2008) Human Resource Management. Pearson Prentice Hall, Upper Saddle River.
- Draft, (2004). Impact of Employees Motivation on Organizational Effectiveness.
- Genet. M, (2017) the effect of employee motivation on performance.
- 15. Hassan R. A., Fuwad B. A., Rauf A. I., Academy of Strategic Management Journal 9(2) (2010) 123-131.
- Houran, J., & Kefgen, K., Money, and Employee Motivation [WWW page]. URL www.2020skills.com
- Kamalanabhan TJ, U. J. (1999). A dephi study of motivational profile of scientists in research and development organizations. Psychol. Rep, 743-49.
- Kamalian, A. R., Yaghoubi, N. M., & Moloudi, J.,
 (2010) Survey of Relationship between
 Organizational Justice and Empowerment (A Case

- Study). European Journal of Economics, Finance and Administrative Sciences, 24, 165-171.
- Katz, D. (1964) The motivational basis of organizational behavior, Vol. No. 9, pp. 131-146.
- Kim, S. M. (2006). "Individual-level Factors and Organizational Performance in Government Organizations", Journal of Public Administration Research and Theory, 15(2)245-61.
- Luthans F (1992). Organizational Behavior, McGraw Hill.2nd Ed. Irwin. Boston.
- Mani, V., (2010). Development of Employee Satisfaction Index Scorecard. European Journal of Social Sciences, 15 (1), 129-139. European Journal of Business and Management.
- Milkovich, G. T., Newman, J. M., & Gerhart, B. 2011.
 Compensation. New York: McGraw-Hill Irwin.
- 24. Mulatu. M, (2014) Determinant factors affecting employees performance in ethio telecom zonal offices: the case of Addis Ababa zonal offices.
- Mullins, L. J. (2006), Essentials of Organizational Behavior, Prentice Hall, Harlow, England
- Ovidiu-Iliuta, D., (2013) Employee motivation and organizational performance.
- 27. Pereira, C.M.M, & Gomes, J.F.S. (2012). The Strength of Human Resource Practices and Transformational Leadership: Impact on Organizational Performance. The International Journal of Human Resource Management, 23(20), 4301-4318.
- 28. Petcharak, P. (2002). The assessment of motivation in the Saint Paul Hotel employees.
- Reena et al., 2009 Impact of Motivation as HR bundle on performance of teachers of public schools in Bungoma Country Kenya.
- Rijalu Negash, Shimelis Zewude, Reta Megersa,
 2014. The effect of compensation on employee's motivation in Jimma University academic staff. Basic Research Journal of Business Management and Accounts, Volume 3(2), pp. 17-27.
- Rukhmani K., Ramesh M., Jayakrishnan J., European Journal of Social Sciences 15(3) (2010) 365-369.
- 32. Sara, L. (2004). The Effect of the Minimum Wage on Prices.
- Sileshi. D, (May 2016). Effects of employee motivation on workers' performance a servey study on ethio telecom. Addis Abeba.

- Thomas Owusu, 2012, effects of motivation on employee performance: Ghana commercial bank, Kumasi zone. Washington D.C. Springer, Inc.
- Vroom, V. H., (1969), in J. Steven Ott, (1989), Classic Readings in Organizational Behavior, Brooks Cole Publishing Company, Pacific Grove, CA.
- Wentzel, K.R., & Wigfield, A. (2009) Handbook of Motivation at School. Rutledge, New York
- 37. Yazdani B. O., Yaghoubi N. M., Giri E. S., European Journal of Social Sciences 20(2) (2011) 267-274.

PRIZREN SOCIAL SCIENCE JOURNAL

FOREIGN LANGUAGE LEARNING ANXIETY AMONG LOW INTERMEDIATE LEVEL EFL STUDENTS: A COMPARISON OF THE ANXIETY LEVELS OF STUDENTS ATTENDING THREE DIFFERENT TURKISH STATE UNIVERSITIES



Dr. Sc. Esen SPAHI KOVAÇ 🗓

 $Prizren\ University\ ``UKSHIN\ HOTI",\ Faculty\ of\ Education,\ Turkish\ Language\ Department,\ esenspahi@hotmail.com$

Article history:

Accepted 26 July 2020 Available online 31 August 2020

Keuwords:

Students,

Anxiety,

EFL,

Foreign Language.

Abstract

The present study examined the general foreign language classroom anxiety of preparatory school students according to the type of University and gender. The sample consisted of 282 students from three preparatory schools. The students were from Anadolu University, Osmangazi University and Dumlupmar University. There were 150 male and 132 female students. One-Way ANOVA showed that there were no significant differences among the level of foreign language anxiety of preparatory school students from different Universities. In addition to considering anxiety in a gender differences t-test showed that female students have been found much more anxious than mail students in foreign language anxiety.

1. Introduction

Foreign Language Anxiety is the fear or negative emotional reaction occurring when a learner is expected to perform in the foreign language (Oxford, 1999; MacIntyre, 1999). Anxiety is a complex psychological construct consisting of many variables; therefore, it is difficult to explain these variables into a single definition (Sellers, 2000). Sovel defines anxiety as fear or concern towards something or uncertainty (Sovel, 1991, p:13).

In the literature, it is seen that foreign language anxiety has been generally defined as "tension during second language learning" (MacIntyre and Gardner, 1994, p. 284).

Many studies have revealed that anxiety complicates language learning. According to Horwitz (1996) language anxiety includes many variables such as beliefs, negative self-perception, and feelings.

The researchers have analyzed various variables that may affect a learner's foreign language learning. Affective variables are really useful in the way that explains the difficulties encountered in learning a foreign language. The affective variables include motivation orientations, learning strategies and anxiety states of the learners (Dörnyei, 2003).

According to MacIntyre and Gardner (1989) that language learners do not originally have anxiety when they start learning. Anxiety is developed in the course of language learning. It is a "learned emotional response". A teacher does not immediately see anxious learners in the first meeting with a class. It occurs inside the students after starting to form impressions and attitudes towards language learning. If students' first impressions about language learning are negative, anxiety may begin to form. It is claimed by MacIntyre and Gardner (1989) that the negative effects of language anxiety disappear as proficiency increases and more positive experiences begin to accumulate. In their investigation they search the reason of anxiety not in the student but in the language learning experience, which indicates that the teacher of anxious students may be doing something unnatural leading the development of anxiety in his/her students.

According to Horwitz (1991); In general, students may experience disappointment in a foreign language they do not know exactly, especially when they try to speak. Students may experience some difficulties with this situation. In such cases,

involuntary actions such as stuttering, trembling, or rejection of speech can be observed in the students with anxiety.

According to Wilson (2006); The most important power that affects anxiety is the students' beliefs. Students may feel anxious if they have a negative bias about language learning.

According to Gaudry and Spielberger (1971) anxiety level can be determined in a variety of ways; such as Verbal Reports, Psychological Indications and General Behaviour.

"A student may refuse to make a speech of thanks to a distinguished visitor who has addressed the school assembly. The reluctant speaker may state that he refused to take on task because he gets so nervous in such situations that he has great difficulty in marshalling his thoughts. Or he may state that he shakes and trembles so much that he becomes incapable of commencing or completing his speech" (Gaudry and Spielberger, 1971).

While observing the classrooms nearly in all language classes there are a few test-anxious ones who can be easily noticed. These students mostly feel that anything except from a good grade from a test is a failure. Also test-anxious students experience more difficulty in language classes than other classes as there are lots of tests and quizzes.

In the literature, it was stated that the anxiety of learning foreign languages was based on communication, exam anxieties and fear of negative evaluation. Rather, it is a distinct complex of students' attitudes, beliefs, emotions and behaviors towards the unified language learning process (Horwitz & Cope, 1986).

According to MacIntyre (1999), the high level of FL anxiety affects success in learning a foreign language. "What can be done to reduce students' anxiety collectively?" a lot of research has been done since the early 1980s to answer this question (Horwitz, 2001).

2. Literature Review

2.1. Anxiety and Language Learning

Many students with a lack of self-confidence are more anxious than other students. They are concerned about the criticism and the negative evaluation of their classmates. Negative verbal communication that may occur between students is their most important causes of stress (Ellis, 1994; Frantzen & Magnan, 2005; Koch &Terrell, 1991; Matsuda & Gobel, 2004; Young, 1991).

Horwitz and his colleagues have developed a scale for measuring language anxiety. This scale is known as FLCAS (Foreign

Language Classroom Anxiety Scale). The scale includes three main factors. These; communication apprehension, test anxiety, and fear of negative evaluation.

Many researchers have investigated different dimensions or processes of anxiety. Some researchers investigated anxiety about foreign language writing skills (Daly & Miller, 1975; Cheng & Horwitz & Schallert, 1999), some researchers investigated anxiety about foreign language reading skills (Saito & Garza & Horwitz, 1999), some investigated anxiety about foreign language listening (Kim, 2000; Vogely, 1998 quoted in: Pichette, 2009)

Some students are always in anxiety. Even if the teacher wants something simple from them, they feel inadequate and weak. They have a negative bias and defend against the question of the teacher. Students with constant anxiety say excuses because they believe they will fail. It strives to prove that these excuses are justified. Even if teachers organize non-stressful activities, these students may tend to not participate in these activities(Lindgen, 1980).

A lot of research has been done to reveal the relationship between anxiety and foreign language learning performance. In their study, MacIntyre and Gardner (1994) have recorded a video while students learned the vocabulary task in French. The anxiety level of the students who were recorded in the video was found to be elevated. They also revealed that their success performance decreased significantly.

Sparks and colleagues used Horwitz's FLCAS scale in one study. They selected the sample group from university and high school students. They also grouped them with high, average, and low anxiety. They tried to determine whether there is a difference between mother tongue skill and foreign language skill. As a result of the research, those in the low and average anxiety groups performed better in reading and speaking skills than those in the high anxiety group(Ganschow, Sparks, Anderson, Javorsky, Skinner, & Patton, 1994).

Sparks and Ganschow repeat this research in 1996 to a larger sample group. The result of this research supports the first research. They revealed that the group of students with high foreign language anxiety scored lower in measurements such as reading, spelling, speaking, and vocabulary.

2.2. Sources of Language Anxiety

Young (1991) stated that foreign language anxiety was fed by six powers. These are:

- 1) Personal and interpersonal anxieties,
- 2) Learner beliefs about language learning,
- 3) Instructor beliefs about language teaching,
- 4) Instructor-learner interactions,
- 5) Classroom procedures,
- 6) Language testing.

Students generally tend to compare their abilities with someone else. if the student evaluates his / her ability negatively as a result of the comparison, his/her anxiety level increases (Price, 1991). However, if the student has reached a positive evaluation result, this feeling helps her learn foreign languages (MacIntyre, Gardner, & Clément, 1997).

The student's belief is an important factor in learning a foreign language. In Wang's (1998) research; It has been revealed that Chinese students believe that learning English is difficult. The students mostly believed that their abilities were insufficient to learn English. Students declared that they can learn English if they go to an English speaking country.

In 2005, Cheng investigated the relationship between teachers' attitudes and students' foreign language learning anxiety. As a result of the study, it was concluded that when the teacher was smiling, patient and comfortable, the level of anxiety of the students is decreased. In addition, the teacher performing the exam without informing revealed that the students increased their anxiety level.

In another study, it was done on the way teachers correct students' mistakes. In this research, it turns out that if teachers stop their students speaking to correct their mistakes, they lead to a negative attitude development in students (Aydın, 2001).

According to Von Worde (1998); The sources of anxiety are listed below:

- 1) Low self-esteem of students,
- 2) Negative judgments against foreign language learning,
- 3) Relationship between teachers and students,
- Teachers' tendency to constantly correct mistakes during speaking.
- 5) Students are inadequate preliminary preparation,
- 6) Teachers reflect their concerns to students,
- 7) Frequent trial exams,
- 8) Use of inappropriate education method,
- 9) Speaking activities without motivating students.

2.3. Measuring Language Anxiety

There are three different methods to measure anxiety. These are;

Behavioral Observation: It is based on measuring the actions of a person;

Physiological Tests: It is based on measuring the physiological symptoms in the person;

Self Reports: Based on collecting information about people's concerns with a data collection tool.

The self-reports method is easier to use in anxiety data collection than other methods. For this reason, the self-reporting method is frequently used by researchers (Scovel, 1991).

Horwitz et al. in 1986 have developed a scale to measure students' anxiety to learn foreign languages. This scale consists of 33 items in total. While developing this scale, the authors assumed that students' perceptions, emotions, beliefs, and behaviors affect foreign language learning performance.

2.4. Gender and EFL Anxiety

Wilson (2006) conducted a research with the participation of 40 learners. He examined the relationship between students' foreign language anxiety and variables such as age, gender and time to start learning English. As a result of the research, it was revealed that female students are more concerned than male students.

When the literature is analyzed, there are very few studies on foreign language learning anxiety by gender. In the research of Aydın and Takkaç (2007), the anxiety scale was applied to 114 students. As a result of the research, a meaningful relationship was found between gender and test anxiety in the context of distrust, discomfort and negative motivation caused by test anxiety. No significant relationship could be detected in other dimensions.

In some studies, female students compared to male students it was determined that he had higher levels of foreign language anxiety (Daly, Kreiser & Rogharr, 1994; Onwuegbuzie, Bailey & Daley, 1997). In Berger and Shechter's (1996) research, it was determined that "female students are more vulnerable in situations of anxiety and discomfort than male students.

3. Methodology

3.1. Significance of Study

In the research foreign language learning anxiety among low intermediate level EFL students were measured. Also, it aims to find out if there are any differences between genders. Identifying the anxiety levels of preparatory school students' will help them to decrease anxiety levels before attending to their own department. The results of the research can help educators better understand their students' anxieties. It can also provide insight into whether student anxiety varies by gender and school.

3.2. Research Questions

The study aims to find answers to the following questions:

- 1. Are there any differences between the students of different schools in foreign language anxiety?
- 2. Are there any significant differences between genders in foreign language anxiety?
- 3. Are there any significant difference between the genders in terms of foreign language learning anxiety on the basis of the schools in which they are educated?

3.3. Setting

This research was carried out in the academic year 2017-2018. This research was conducted in three universities: Anadolu University, Osmangazi University and Dumlupınar University. The participants of this study were drawn from among EFL students enrolled in preparatory classes. A total of 300 students were surveyed. As a result of the evaluation of the questionnaires, 18 questionnaires were eliminated by the researcher. A total of 282 questionnaires were taken into consideration.

3.4. Instruments

FLCAS was developed by Horwitz et al. (1986). There are three main factors in this assumption: communication apprehension, test anxiety, and fear of negative evaluation. Considering these factors, a person's anxiety to learn a foreign language is determined

FLCAS was translated into Turkish by Aydın (2001). The scale consists of 33 items. This scale is in the form of a 5-point Likert scale. The scale includes a total of 24 positive expressions and 9 negative expressions. During the analysis, negative expression values were reversed. Cronbach Alpha measure was found 0.87.

3.5. Data Collection

The relevant data for this study was collected in the spring term in 2017-2018 academic years. The precautions were taken in order to administrate the applications of scale. To distribute the questionnaire (FLCAS) to the participants, permission was taken from Anadolu University, Osmangazi University and Dumlupinar University. The students were informed in detail before applying the FLCAS. During the application students filled the blanks of scale in teachers' room. After the application the researcher thanked to students for their contributions to the research.

4. Data Analysis, Findings and Results

First of all, the statistical analyses were done according to 'Statistical Package for the Social Sciences (SPSS 18, 0 for Windows)'. The collected data was analyzed by using the statistical techniques below.

The overall scores of FLCAS were calculated in order to answer whether there are any significant statistical differences between Universities. Therefore, in this section it was used the One-Way ANOVA. Primary hypotheses were tested and normal distribution criteria were provided before the administration of One-Way ANOVA.

The Levene test was used to identify whether there were significant differences between groups of variance. If the statistics of Levene test is more than 05 it indicates the homogenous of variance groups. (Field, 2005).

Also, the overall scores of FLCAS were calculated in order to answer whether there were any significant statistical differences between genders. Therefore, in this section it was used the Independent Samples and T-Test were used and the homogenous of variance were measured by Levene test.

4.1. Findings

This section includes descriptions of the sample group, answers to the research questions, and findings.

Table 1. Gender * University Cross-Tabulation

				University Nam	e	
		Anadolu	Dumlupına	Osmangazi	Total	
				r		
		Count	48	49	35	132
Gender	Female	% within	36,4%	37,1%	26,5%	100,0
Gender		Gender				%
	Male	Count	51	49	50	150

	% within	34,0%	32,7%	33,3%	100,0
	Gender				%
	Count	99	98	85	282
Total	% within	35,1%	34,8%	30,1%	100,0
	Gender				%

A total of 99 students from Anadolu University participated in the research. 48 of them are women and 51 of them are men. A total of 98 students from Dumlupmar University participated in the research. 49 of them are women and 49 of them are men. A total of 85 students from Osmangazi University participated in the study. 35 of them are women and 50 of them are men.

Research question 1: Are there any differences between the students of different schools in foreign language anxiety?

In order to, find out whether there were any significant differences among the three preparatory schools students in foreign language anxiety, the One-Way ANOVA was conducted in table 2.

Table 2. FLCAS Scores According to Universities

The resources of	Total sum	SD	Average of	F	P
variance	of squares		squares		
Among groups	517,841	2	258,921	,780	,459
In groups	92588,318	279	331,858		
Total	93106,160	281			

As seen from Table 2, In the one-way analysis of variance, no significant difference was found between the groups. [F (2-279) = 0.780, p >,05]. It can be said that there is no significant difference between the foreign language learning anxiety of students studying in different universities.

In other words, the p-value was higher than 0.05, which means there were no significant differences among the level of foreign language anxiety of preparatory school students from different Universities. **Research question 2:** Are there any significant differences between genders in foreign language anxiety?

In order to, find out whether there were any significant differences between genders in the foreign language anxiety of the preparatory schools students, the Independent Samples t-test was conducted in table 3.

After using the Levene test it was found that there was the homogeneous of variance [F= 1.42, p> .05].

Table 3. FLCAS Scores According to Gender

Gender	N	X	S	SD	Т	P
Female	132	98,96	18,69	280	3,78	.000
Male	150	90,93	16,94			

As seen from Table 3, According to the gender variable, foreign language learning anxiety differs significantly. [t (280) = 3,78, p < .01].

Total average scores of students' foreign language anxiety in females (x = 98, 96) are more than males (x = 90, 93). It can be said that female students are more anxious than male students.

Research question 3: Are there any significant difference between the genders in terms of foreign language learning anxiety on the basis of the schools in which they are educated?

One-Way ANOVA was performed to find out whether there is a significant difference between the genders according to the school in which foreign language anxiety is studied. The result of this analysis is shown in Table 4 and Table 5.

Table 4. Distribution of Variables

Descriptives												
					95% Confidence							
			Std.		Me							
	N	Mean	Deviation	Std. Error	Lower Bound	Upper Bound	Min	Max				
Anadolu (F)	48	99,04	21,456	3,096	92,81	105,27	48,00	138,00				
Anadolu (M)	51	92,37	17,835	2,497	87,35	97,38	53,00	129,00				
Dumlupınar (F)	49	99,51	17,338	2,476	94,53	104,49	53,00	130,00				
Dumlupınar (M)	49	86,16	14,870	2,124	81,89	90,43	51,00	111,00				
Osmangazi (F)	35	98,08	16,882	2,853	92,28	103,88	54,00	124,00				
Osmangazi (M)	50	94,14	17,216	2,434	89,24	99,03	60,00	124,00				
Total	282	94,69	18,202	1,083	92,55	96,82	48,00	138,00				

Table 5. Results of One Way Anova Analysis

Tuble 5: Results of One Way Findy a Find y 315										
			Sum of Squares	df	Mean Square	F	Sig.			
Between Groups	(Combined)		6302,620	5	1260,524	4,008	,002			
	Linear Term	Weighted	16,738	1	16,738	,053	,818			
		Deviation	6285,881	4	1571,470	4,997	,001			
Within Groups			86803,540	276	314,506					
Total			93106,160	281						

As a result of the analysis, there is a significant difference between the groups (Sig <, 05). Post-Hoct Tukey Test was performed to determine which groups these differences were. As a result of the analysis, it was determined that the foreign language anxiety levels of Dumlupinar University preparatory class male students is significantly different from female students at their own universities and other universities were. It has been determined that Dumlupinar University preparatory class male students have lower anxiety levels than the others.

5. Discussion

In this study, foreign language learning anxiety level was analyzed in terms of gender. As a result of the research, it was determined that female students were significantly more anxious than male students. The result of the study reached similar conclusions with the research of Daly et al. (1994), Berger and Shechte, Onwuegbuzie et al. (1997), Huang's (2004), Wilson (2006).

When the details of the study were examined, Dumlupinar University Male students' foreign language anxiety level score was found to be the lowest. A detailed study should be conducted on the beliefs, emotions and behaviors of these students. Besides, how these students perceive the teaching method, what kind of teaching method is made, the approach style of the teachers

should be examined. When an accurate analysis is made, it can be determined in which situations the anxiety of learning a foreign language is low. Thus, the authorities can come up with new solutions to increase foreign language learning success.

6. Conclusions

The current study has examined to what extent foreign language anxiety influence language learners.

- There were no significant differences among the level of foreign language anxiety of preparatory students from different Universities.
- 2. There were significant differences between genders in foreign language anxiety level of preparatory school's students from different Universities. Foreign language anxiety in female students is higher than mail students.

References

- 1. Aida, Y. (1994). Examination of Horwitz, Horwitz, and Cope's construct of foreign language anxiety: The case of students of Japanese. The Modern Language Journal, 78, 155-168.
- 2. Aydın, B. (2001). A study of sources of foreign language classroom anxiety in speaking and writing classes.

- Unpublished doctoral dissertation, Anadolu University, Eskişehir.
- Aydın, S, & Takkaç, M. (2010). İngilizceyi İkinci Dil Olarak Öğrenenlerde Sınav Kaygısının Cinsiyet ile İlişkisi .
 Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, 9
 (1), 259-266. Retrieved from https://dergipark.org.tr/tr/pub/ataunisosbil/issue/2819/3799
 8
- 4. Berger, R. & Shechter, Y. (1996). Guidelines for choosing an "intervention package" for working with adolescent girls in distress. Adolescence, 31(123), 709-719.
- 5. Cheng, C. J. (2005). The relationship to foreign language anxiety of oral performance achievement, teacher characteristics and in-class activities. Unpublished master's thesis, Ming Chuan University.
- 6. Daly, J. A. & Kreiser, P. O. & Rogharr, L. A. (1994), Question-asking comfort: Explorations of the demography of communication in the eighth-grade classroom. Communication Education, 43, 27-41.
- 7. Dörnyei, Z. (2003). Attitudes, orientations, and motivations in language learning: Advances, theory, research, and applications. Blackwell, Ann Arbor.
- Ellis, R. (1994). The study of second language acquisition. Oxford, United Kingdom: Oxford University Press.
- 9. Field., A. (2005). Discovering Statistics Using SPSS. Sage Publications Ltd, 2. ed, London.
- 10. Frantzen, D., and Magnan, S. S. (2005). Anxiety and the true beginner-false beginner dynamic in beginning French and Spanish classes. Foreign Language Annals, 38, 171–190.
- 11. Gaudrye. and Spielberger, C. D. (1971). Anxiety and educational achievement. Sydney, New York: J. Wiley & Sons.
- 12. Ganschow, L., Sparks, R., Anderson, R., Javorsky, J., Skinner, S., and Patton, J. (1994). Differences in anxiety and language performance among high, average, and low anxious college foreign language learners. Modern Language Journal, 78, 41-55.
- Ganschow, L., and Sparks, R. (1996). Foreign language anxiety among high school women. Modern Language Journal, 80, 199-212.
- 14. Horwitz, E. K. (1986). Preliminary evidence for the reliability and validity of a foreign language anxiety scale. Tesol Quarterly, 20, 559-562.
- 15. Horwitz, E. K, Horwitz, M. B. and Cope, J.(1986). Foreign language classroom anxiety. The Modern Language Journal, 70, (2),125-132.
- 16. Horwitz, E. K. & Horwitz, M. B. & Cope, J. A. (1991). Foreign language classroom anxiety. In E. K. Horwitz & D.

- J. Young (Eds.), Language anxiety: From theory and research to classroom implications. Englewood Cliffs, New Jersey: Prentice Hall.
- 17. Horwitz, E. K. (2001). Language anxiety and achievement. Annual Review of Applied Linguistics. 21, 112–126.
- 18. Huang, H. (2004). The relationship between learning motivation and speaking anxiety among EFL non-English major freshmen in Taiwan. Unpublished master's thesis, Chaoyang University of Technology.
- 19. Kitano, K. (2001). Anxiety in the college Japanese language classroom. The Modern Language Journal, 85(4), 549-566.
- 20. Koch, A. S. & Terrell, T. D. (1991). Affective reactions of foreign language students to natural approach activities and teaching techniques. In E. K. Horwitz & D. J. Young (Eds.), Language anxiety: From theory and research to classroom implications (pp. 109–126). Englewood Cliffs, NJ: Prentice Hall.
- 21. Lindgen, H.C. (1980), Educational psychology in the classroom. The MacMillan Co, New York.
- 22. MacIntyre, P. D. & Gardner, R. C. (1989). Anxiety and second language learning: Toward a theoretical clarification. Language Learning, 39, 251-257
- 23. MacIntyre, P. D., & Gardner, R. C. (1994). The subtle effects of language anxiety on cognitive processing in the second language. Language Learning, 44(2), 283-305.
- 24. MacIntyre, P. D. & Gardner, R. C. & Clément, R. (1997). Biases in self-ratings of second language proficiency: The role of language anxiety. Language Learning, 47(2), 265-287.
- 25. MacIntyre, P. D. (1999). "Language anxiety: A review of the research for language teachers". In young, D. J. (Ed.) (1999). Affect in foreign language and second language learning: A practical guide to creating a low-anxiety classroom athmosphere, 24-46.
- 26. Matsuda, S. & Gobel, P. (2004). Anxiety and predictors of performance in the foreign language classroom. System, 32, 21–26.
- 27. Oxford, R. L. (1999). "Anxiety and the language learner: new insights." In Arnold, J. (Ed.) Affect in Language Learning. Cambridge: CUP.
- 28. Onwuegbuzie, A. J. & Bailey, P. & Daley, C. E. (1997), Foreign language anxiety among college students. Paper presented at the annual meeting of the Mid-South Educational Research Association, Memphis, TN.
- 29. Pichette, F. (2009). Second language anxiety and distance language learning. Foreign Language Annals, 42 (1), 77-93.

- 30. Price, M. L. (1991). The subjective experience of foreign language anxiety: Interviews with highly anxious students. In E. K. Horwitz & D. J. Young (Eds.), Language anxiety: From theory and research to classroom implications (pp. 101-108). Englewood Cliffs, New Jersey: Prentice Hall.
- 31. Scovel, T. (1991). The effect of affect on foreign language learning: A review of the anxiety research. In E. K. Horwitz & D. J. Young (Eds.), Language anxiety: From theory and research to classroom implications (pp. 15-25). Englewood Cliffs, New Jersey: Prentice Hall.
- 32. Sellers, V. D. (2000). "Anxiety and reading comprehension in Spanish as a foreign lanaguage". Foreign Language Annals, 33 (5), 512-520.
- 33. Von Worde, R. (1998). An investigation of students perspectives on foreign language anxiety. Available: http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/1b/56/64.pdf
- 34. Wang, N. (1998). Beliefs about language learning and foreign language anxiety: A study of university students learning English as a foreign language in Mainland China. Unpublished master's thesis, University of Victoria.
- 35. Wilson, S. T. J. (2006). Anxiety in learning English as a foreign language: Its associations with student variables, with oral proficiency, and with performance on an oral test. Unpublished doctoral dissertation, Universidad de Granada. 36. Wilson, S. T. J. (2006). Anxiety in learning English as a foreign language: Its associations with student variables, with oral proficiency, and with performance on an oral test. Unpublished doctoral dissertation, Universidad de Granada. 37. Young, D. J. (1991). Creating a low-anxiety classroom environment: What does language anxiety research suggest? Modern Language Journal, 75, 426–439.

PRIZREN SOCIAL SCIENCE JOURNAL

CHILD REFUGEES IN EUROPE



SCAN ME

Seda YAZGAN HADZIBULIC, PhD. C. 🗓

Northeastern Illinois University, Faculty of Political Science, sedayazgan87@gmail.com

Article history:

Accepted 20 April 2020 Available online 31 August 2020

Keywords:

Refugees,

Children Refugees,

EU,

UDHR,

European Union Refugee Policies.

Abstract

This paper provides an overview of the literature on the current refugee crisis in Europe, which primarily focuses on the situation of refugees that are children. Due to its magnitude, the world is currently facing one of the biggest humanitarian crises it has ever witnessed. Millions of people and young children have fled their home countries and became refugees The horror of wars and conflicts has affected all of the refugees while undoubtedly, it has had a more profound and significant impact on the children refugees. The rights of these refugee children are paramount, and one of these rights is that they are provided with safety and resources that will help them cope with the crisis while also ensuring they are provided a chance to a brighter future.

The United Nations Declaration of Human Rights. The European Union and the whole world have a direct responsibility to provide basic necessities such as food, shelter, education, health which can help and alleviate the mental and emotional suffering which the refugee children face. My research will focus on three important aspects of the child refugee's crisis in Europe The general conditions of the children refugees, the conditions of camps especially in Italy, Greece, and Spain, and how the crisis has affected their daily lives and mental health. In the end, my conclusion will focus on the question of, what are the policies which Europe has to change which are designed to help and lead the refugee children which to a better future.

The aim of this paper to have a better understanding of children refugees in Europe and to raise global awareness about their conditions and the humanitarian crisis at hand. Research will consist of information from academic articles, published books, various websites, data from previous studies, and resources.

1. Introduction

In 2016, global forced displacement hit record-high numbers - the highest in recorded human history of 63.5 million people. (Edwards 2016). According to the Global Trends released by the UN Refugee Agency (2016), on average, 24 people were forced to flee their homes every minute in 2015 - four times more than it was reported a decade earlier. The numbers are staggering; and among millions of uprooted are hundreds of thousands of unaccompanied children traveling to Europe hoping to find the promise of safety, security and sanctuary. Currently, the vast majority of child refugees coming to Europe are from war-torn countries. Overall, the number of asylum applications from these countries began to rise, especially after 2012 when, in lieu of the Syrian war, and the ongoing conflicts in Somalia and Iraq, the

Taliban resurfaced in Afghanistan. (Mortimer 2016, as cited in Chak, 2017). There are more refugees coming out of Syria than any other nation (Amnesty International Ltd. 2014, as cited in Sirin, Rogers 2015). Approximately half of the Syrian refugees are under the age of 18, and around 40 percent are under the age of 12 (Sirin and Rogers, 2015). More than one in five of over 870,000 refugees and migrants who have crossed the Mediterranean Sea to Europe is a child. Children are among the most at risk of the refugee migrants. For some children, the difficulties begin with perilous border crossings and rough seas. All are at risk of being exposed to sickness, injury, violence, exploitation and trafficking - violations of their rights and threats to their lives and well-being - while some tragically never arrive at their destination. (Global Migration Data Center 2015)

According to the latest statistics reported by UNICEF (2019), by the end of 2018 an estimated 27,000 children were present in Greece. In Italy it was reported that 10,787 children were present in shelters for Unaccompanied and Separated Children (UASC), run by state authorities and non-profit entities, and Spain accounted for a total of 13,000 unaccompanied and separated children.

This literature review will examine, in four parts, the many difficulties child refugee face once they have arrived to Europe. The first part of the literature review will focus on welcoming the refugee and how it may cause conflict with the host countries' citizens and their domestic policies. The second part of the literature review will cover the conditions of the refugees' camps in different European countries. The third will cover the refugees' access to health care. The fourth will review the education that is offered to the refugees.

2. Refugee's Welcome?

When thousands of migrants left Budapest to march on a motorway towards Austria - and Germany - the German Chancellor, Angela Merkel, and her Austrian counterpart, Werner Faymann, took a far-reaching decision. Bypassing the ordinary rules of the EU's shared asylum system, both leaders agreed to permit asylum seekers entry into their countries. She appeared on talk shows to explain that Germany was under an obligation to help. Simultaneously, enthusiastic forms of civil society engagement in villages, towns and cities sprang up to provide assistance (Bock and McDonald 2019). On the ground, Germany's Willkommenskultur (welcoming culture) manifested through the considerable number of volunteers that reinforced early settlement and integration efforts. The Barometer of Public Opinion on Refugees conducted as part of the 2016 wave of the Socio-Economic Panel of the German Institute for Economic Research (Deutscher Intistut für Witschaftsforschung, DIW) indicated that an approximate 10% of the German population, amounting to over 8 million people, had helped refugees on site by accompanying them to appointments with the government or volunteering for language instruction (Stoyanova 2017).

The welcome of the Austrian Chancellor was not long lived as the Austrian government quickly turned their attention on to protect Austria's borders and were debating on building a fence or a wall. These heated debates amongst Austrian government parties led to the resignation of Werner Faymann as Austria Chancellor on May 9, 2016. (Rheindorf and Wodak 2017) Countries such as Greece were dealing with their own domestic and economic issues, immediately felt the pressure of the migration waves which became so great that the situation in Greece was described by the UNHCR (2017) as resembling a humanitarian crisis. In Greece

refugees are often viewed in negative and hostile terms (Giannopoulos and Gill 2018). They are seen to represent a burden on the host country, and a particular source of discontent arises when refugees are perceived to have a better life than some of the Greeks themselves. According to Ellinas (2013) the economic crisis has brought a massive realignment of the Greek electorate away from mainstream parties, giving rise to antisystem and anti-immigrant sentiments.

The Asylum Information Database (AIDA 2019) on Greece, reported that in September of 2018, two unaccompanied children living in a shelter in Oreokastro, Thessaloniki were attacked by a group of ten people and in March 2019, in Samos, the parents' association has kept their children out of a primary school in order to protest against the participation of refugee children in classes. The immigrants also fear the local authorities as (Keith and LeVoy 2015) the policies which task police with enforcing migration regulations mean that undocumented migrants, including children, are unable to report violence to the police safely. They are unable to seek protection and redress without risk of detention and deportation, and regularly face immigration enforcement - or the threat of immigration enforcement - rather than protection and appropriate steps towards prosecution. This makes them 'zero risk' victims, and breeds a culture of impunity for violence. Greece is not the only country that has unwelcomed the refugee's as the Prime Minister of Hungary Viktor Orban, built a wall against refugees and triggered a collapse on the Balkans' borders. Prime Minister Miro Cerar of Slovenia said that his country will only accept Christian refugees and that Europe is going to drown. Norbert Hofer, the far-right leader in Austria that promised he will protect Austrian borders against the refugees. They all have a palpable enemy: the refugee (Postelnicescu 2016).

3. Camp Conditions

According to the UNHCR (2018) reporting on the conditions of the Reception Identification Center (RIC) in Samos, despite having capacity for 650 people, the centre and its surrounding area are currently hosting around 4,000 people – six times its design. By any measure, things are in crisis. Food and water supply is reportedly insufficient, sanitation is poor and security highly problematic. Many of the asylum-seekers arrive in Greece in a vulnerable state, but even those who turn up at the RIC in good condition soon find themselves suffering from health problems (AIDA 2019), The low number of staff under the Ministry of Health, particularly doctors and cultural staff mediators, are not sufficient to help refugees with medical and psychological needs. (UNHCR 2019)

In contrast to the overcrowding conditions for refugees in Greece, the Asylum Information Database (AIDA 2019) on Germany reports that most initial reception centres have a policy to accommodate single women and families in separate buildings or separate wings of their buildings, but in situations of overcrowding this policy could not be put into practice in many facilities in recent years. The AnKER centre in Manching/Ingolstadt for example provides separate rooms for vulnerable persons. The AnkER centre of Bamberg in Bavaria has a capacity of 3,400 places, for example, although it has never accommodated more than 1,500 persons at one time. It also reported that the facilities are often isolated or in remote locations. In general, two or more menus are on offer for lunch and the management of the catering facilities tries to ensure that specific food is provided with regard to religious sentiments. Because different policies are pursued on regional and local level, it is impossible to make general statements on the standards of living in the follow-up accommodation facilities.

The AIDA (2019) also reported on the conditions in Hungary where all refugees are placed in detention camps such as Nyirbatov. The detainees said the facilities were infested with bedbugs, and Human Rights Watch researchers observed rashes and bites on detainees. Staff said that eradicating the problem would be too costly. Though the temperature was cold, around 5 degrees, many people were without sweaters and were wrapped in bedsheets. Staff said detainees are expected to buy their own clothes. There are no programmes organised for teenage unaccompanied children, who often complain of boredom. Their pens and pencils are also taken away because of security risk.

4. Health Care

According to the United Nations Office of the High Commissioner on Human Rights, the Convention on the Rights of the Child (OHCHR 1989) States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. European countries such as France, Italy, Spain, Portugal and Norway stand out because they have explicit policies that aim to provide care on equal terms to the host population for all categories of migrant children. In contrast, Germany and Slovakia stand out as the European countries with the most restrictive policies. Twelve European countries have limited entitlements to health care for asylum seeking children, including Germany that stands out as the country with the most restrictive health care policy for children. (Ostergaard et al., 2017) Accessing medical care in Germany can be a gamble as Keith and LeVoy (2015) state that according to one law, undocumented migrants should have the same access to health services as asylum seekers - in cases of acute illness and pain, and maternity care there is another law that requires social welfare offices to report undocumented migrants to the immigration authorities in all but emergency care situations. These contradictory laws mean that undocumented migrants, including children, are only able to access emergency treatment free of charge from public health facilities and would be at risk of denunciation and deportation if they were to try to access any other health services. Therefore, in effect, the legal framework only entitles undocumented migrants to emergency care, and there are at times difficulties in accessing even this care. In France, the European Migration Network (2014) reports that, as soon as the Unaccompanied Minor (UAM) enters the shelter phase, the young person benefits from Universal Health Cover (Couverture Maladie Universelle) (CMU). After this, the young person under the care of the Social Child and Youth care services (ASE) has access to health care under common law. A health check is systematically carried out on admission to the ASE services. UAMs who do not come under the protection of the ASE, can benefit from State Medical Aid (AME), as irregularly staying foreign nationals. This access to State Medical Aid is not conditioned on the presence of three months on the French territory for minors, unlike for irregularly staying adults (European Migration Network 2014).

5. Education

Sirin, Rogers (2015) writes that during the 2014-2015 school year, 51 percent of all Syrian children did not attend school, and in the hardest -hit areas up to 74 percent of children were not enrolled. As of 2014 Syria's net primary education enrollment rate was the second -lowest in the world. Many children arrive in refugee camps are already at an educational disadvantage. Most of the time refugee children are behind in all subjects and will need to catch up while simultaneously learning a new language and adjust to an entirely new cultural and social environment. The acquisition of a second language is particularly challenging for children who have fallen behind in academic skills due to interruptions in their schooling. Additionally, the emotional trauma experienced by many refugee children may affect their cognitive, emotional, and social development. The EU member states have been facing challenges in providing decent opportunities in education for newly arrived refugees and integrating them into mainstream education. These challenges have intensified since 2015 with the arrival of larger numbers of refugees and asylum seekers (Thomas et al. 2018). Administrative procedures and legal restrictions represent barriers for migrants' inclusion into education when access to schooling is dependent on their legal status or the stage in the asylum process (Koehler et al. 2018). The education across Europe is different by reception centers as countries such as Austria, Belgium, Germany, Italy and Sweden amongst others, offer limited education classes such as language while they are in reception centers. The UK, Spain, Slovakia, Bulgaria and Greece

do not have reception classes and are directly enrolled in mainstream education classes (Koehler et al. 2018). Some municipalities in Germany, such as Hamburg, have installed 'learning groups' in reception centres (classes of up to 15 children and adolescents, roughly divided into age groups, who receive German language lessons and partly alphabetization in Latin writing). In principle, attendance at the learning groups is obligatory for all young people under age 18, but absenteeism is high (Thomas et al. 2018). In some cases, children receive language education for a few hours a day in the asylum seeker centres, rather than going to a regular school and have regular school hours. In Greece, education is compulsory for all children irrespective of their legal status; the non-enrolment of minors is penalised, and sanctions can be imposed on parents and guardians who do not register their children or neglect school attendance. However, this is rarely applied to vulnerable groups such as refugee parents (Crul et al. 2019).

According to the AIDA (2019) report on Access to Education in Greece, children aged between 6-15 years, living in dispersed urban settings (such as UNHCR accommodation, squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enroll in the morning classes alongside Greek children, at schools that will be identified by the Ministry.

In both Sweden and Germany there is no obligation to attend school for those still in the process of status definition, who therefore do not yet have a residence permit (Bourgonje, 2010; Rydin et al., 2012, as cited in Crul 2019), although in theory, German language courses are obligatory in Germany in the reception centres. In some cases, children receive language education for a few hours a day in the asylum seeker centres, rather than going to a regular school and have regular school hours. For the refugees in Italy, the Italian legislation provides that all children until the age of 16, both nationals and foreigners, have the right and the obligation to take part in the national education system. Under the Reception Decree, unaccompanied asylum-seeking children and children of asylum seekers exercise these rights and are also admitted to the courses of Italian language. The Reception Decree makes reference to Article 38 TUI, which states that foreign children present on Italian territory are subject to compulsory education, emphasizing that all provisions concerning the right to education and the access to education services apply to foreign children as well (AIDA Italy 2019).

6. Conclusions

The European Union as a whole has in many ways failed the refugees but also the European member countries that were

struggling prior to the drastic mass migration at the start of the Middle East turmoil. Europe has always had to deal with legal and illegal migration from those same countries in the Middle East and as far as Asia. It is hard to place blame on a country as Greece with their abysmal record of camp conditions and their access to health care when they have their own domestic and economic issues to deal with. Greece being the first point of entry into Europe through many of their islands in the Mediterranean was in no position to take on such a disaster even only as if it was a transit point for the refugees. Countries as Germany were able to manage and avoid being overwhelmed due to their strong economy. The European Union was built to take on a collective role as a whole but has shown their inability to organize and be prepared for disasters such as the refugee crisis and has failed miserably. With all its power, the European Union and its 28 members were unable to coordinate and provide in some cases the basics needs for the refugees. In doing so, it seems that they allowed each country to fend for themselves which gave a voice to the nationalist movements that led to the violence that the children and all other migrants face. Countries like Hungary and Austria amongst others, closed their borders and were in discussions of building fences and walls on their borders. If we are to call it the European "Union", why should some of the member countries have no issues providing at least the basics of hum a dignity, such as the right to health care and housing, while others are denied health care and are locked up in detention centers with overflowing sanitation problems which lead to more health issues. The European Union should not have conflicting policies, rather it should be a collective and organized effort by all of its members that are in "union" with its goals. One of its unquestionable and undeniable goals was for the EU and its member states is to protect the lives of the more than 200,000 unaccompanied and minor child refugees with their borders.

References

- 1. AIDA 2019 Mapping Asylum Procedures, Reception Conditions, Detention and Content of Protection in Europe." Asylum Information Database |Conditions in Reception Facilities: Germany. https://www.asylumineurope.org/reports/country/germany/reception-conditions/housing/conDitions-reception-facilities (November 2, 2019).
- 2. AIDA 2019. "Access to Education." Access to education Greece | Asylum Information Database. https://www.asylumineurope.org/reports/country/greece/reception-conditions/employment-and-education/access-education (November 2, 2019).
- 3. AIDA 2019. "Conditions in Reception Facilities."

 Conditions in reception facilities Greece | Asylum

 Information

 Database

https://www.asylumineurope.org/reports/country/greece/reception-conditions/housing/conditions-reception-facilities#footnote51_oj4okh8 (November 2, 2019).

- 4. AIDA 2019. "Conditions in Detention Facilities."

 Conditions in detention facilities Hungary | Asylum Information

 Database.

 https://www.asylumineurope.org/reports/country/hungary/detention-asylum-seekers/detention-conditions/conditions-detention#footnote4_99iuf6a (November 2, 2019).
- 5. AIDA 2019. "Italy." Country Report Italy | Asylum Information Database. http://www.asylumineurope.org/reports/country/italy (November 2, 2019).
- Bock, Jan-Jonathan, and Sharon Mcdonald. 2019.
 Refugees Welcome? Difference and Diversity in a Changing Germany. p2 New York: Berghahn Books
- 7. Chak, Farhan Mujahid. 2017. "Am I Not a Child? The Neglect of Child Refugees in Europe." TRT World. https://www.trtworld.com/worldcitizen/images/PDFs/aminotachild.pdf (November 2, 2019).
- 8. Crul, Maurice et al. 2019. "How the Different Policies and School Systems Affect the Inclusion of Syrian Refugee Children in Sweden, Germany, Greece, Lebanon and Turkey." Comparative Migration Studies. https://comparativemigrationstudies.springeropen.com/articles/10.1186/s40878-018-0110-6 (November 2, 2019).
- 9. Edwards, Adrian. "Global Forced Displacement Hits Record High." UNHCR.(2016) https://www.unhcr.org/en-us/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.htm (November 2, 2019).
- 10. Ellinas, Antonis A. 2013. "The Rise of Golden Dawn: The New Face of the Far Right in Greece." South European Society and Politics 18(4): 543–65. doi: 10.1080/13608746.2013.782838.
- 11. European Migration Network. Policies, Practices and Data on Unaccompanied Minors in 2014. 2014. 3rd ed. Paris:https://ec.europa.eu/home-

 $\underline{affairs/sites/home affairs/files/what-we-}$

do/networks/european_migration_network/reports/docs/em_n-studies/unaccompanied-

minors/10a france uams study english version final.pdf

- 12. Giannopoulou, Chrisa, and Nick Gill. 2018. "Asylum Procedures in Greece: The Case of Unaccompanied Asylum Seeking Minors." Asylum Determination in Europe: 109–30. doi: 10.1007/978-3-319-94749-5_6.
- 13. IOM and UNICEF Data Brief. "Migration of Children to Europe." 2015. https://www.iom.int/sites/default/files/press_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf (November 2, 2019).

14. Keith, Liliana, and Michele LeVoy. 2015. "Protecting Undocumented Children: Promising Policies and Practices from Governments." PICUM. http://picum.org/Documents/Publi/2015/Protecting_undocumented_children-

<u>Promising policies_and_practices_from_governments.pdf</u> (November 2, 2019).

15. Koehler, Claudia, Heckmann Friedrich, Daniel Goeler, and Michiel Lippens. 2018. "Multi-Country Partnership to Enhance the Education of Refugee and Asylum-Seeking Youth in Europe." Sirius - Policy Network on Migrant Education. https://www.researchgate.net/publication/326113676_SIRI_US-Policy_Network on Migrant Education Multi-Country_Partnership_To_Enhance_The_Education_Of_Refugee_And_Asylum-Seeking_Youth_In_Europe-Perae_Comparative_Report. (November 2, 2019)

16. OHCR. 1989. "Convention on the Rights of the Child."

https://www.ohchr.org/en/professionalinterest/pages/crc.as px (November 2, 2019).

- 17. Ostergaard, Liv Stubbe et al. 2017. "Restricted Health Care Entitlements for Child Migrants in Europe and Australia." European Journal of Public Health 27(5): 869–73. https://doi.org/10.1093/eurpub/ckx083 (November 2, 2019).
- 18. Postelnicescu, Claudia. 2016. "Europe's New Identity: The Refugee Crisis and the Rise of Nationalism." Europe's Journal of Psychology 12(2): 203–9. doi: 10.5964/ejop.v12i2.1191.
- 19. Rheindorf, Markus, and Ruth Wodak. 2017. "Borders, Fences, and Limits—Protecting Austria from Refugees: Metadiscursive Negotiation of Meaning in the Current Refugee Crisis." Journal of Immigrant & Refugee Studies 16(1-2): 15–38. doi: 10.1080/15562948.2017.1302032.
- 20. Sirin, Selcuk R., and Lauren Rogers-Sirin. 2017. "The Educational and Mental Health Needs of Syrian Refugee Children."

https://www.migrationpolicy.org/research/educationaland-mental-health-needs-syrian-refugee-children (November 2, 2019).

- 21. Stoyanova, Anastasia. 2017. "Refugees Not Welcome: Investigating Reasons for Violence Against Refugees in Germany." Academia.edu. https://www.academia.edu/37528121/Refugees Not Welcome Investigating Reasons for Violence Against Refugees in Germany (November 2, 2019).
- 22. UNHCR 2019." Greece". UNHCR: The UN Refugee Agency Fact Sheet.

https://bit.ly/2E717It. (November 2, 2019).

- 23. UNHCR 2016 "Global Trends Forced Displacement In 2015." The UN Refugee Agency. https://www.unhcr.org/576408cd7.pdf (November 2, 2019).
- 24. UNHCR 2018. "UNHCR Urges Greece to Accelerate Emergency Measures to Address Conditions on Samos and Lesvos." https://www.unhcr.org/en-us/news/briefing/2018/11/5be15c454/unhcr-urges-greece-accelerate-emergency-measures-address-conditions-samos.html (November 2, 2019).
- 25. UNHCR. 2017. "Situation on Greek Islands Still Grim despite Speeded Transfers." Refworld. http://www.refworld.org/docid/5a3cec6b4.html. (November 2, 2019).
- 26. UNICEF. 2019. "Latest Statistics and Graphics on Refugee and Migrant Children." UNICEF. https://www.unicef.org/eca/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children (November 2, 2019).

FORMULATIVE POLICY OF DEATH PENALTY FOR CORRUPTORS IN INDONESIA



SCAN ME

Ni Wayan SINARYATI, PhD. C.[®] 1*

I Gede ARTHA, PhD. C. D 2

- 1 University of Udayana Denpasar, Faculty of Law, Doctoral Study Program, <u>wayansinaryati.fh@gmail.com</u>, *Correspondent
- 2 University of Udayana Denpasar, Faculty of Law, Doctoral Study Program, igedeartha.fh@gmail.com

Article history:

Accepted 10 June 2020 Available online 31 August 2020

Keywords:

Policy Formulation,

Death Penalty Sanctions,

Corruptors.

Abstract

Corruption is committed by state officials, law enforcement and other related parties. Various efforts have been made by the government in preventing and eradicating corruption in Indonesia, but the efforts that have been made have not yet gotten optimal results. The fundamental weakness in eradicating corruption in Indonesia is the formulation of the main criminal sanctions in the form of criminal threats that are facultative, uncertain or must be. So that the corruptors are never deterred or afraid. In the future, the legislators need to reformulate the provisions of Article 2 paragraph (2) of the Republic of Indonesia Law Number 31 of 1999 as amended to Law of the Republic of Indonesia Number 20 of 2001 concerning Eradication of Corruption. Various criminal law policies still need to be carried out by the state in order to eradicate corruption to achieve the expected results.

This type of research in this paper uses the type of normative legal research. The type of approach is in the form of a legal approach related to corruption. There are two legal materials used, namely primary legal materials and secondary legal materials, with legal material collection techniques used in the form of library studies. The analysis technique used is descriptive, interpretation, evaluation and argumentative techniques. The research in this paper intends and aims to examine and analyze the facts and phenomena of corruption that are stated in specific legislation concerning criminal sanctions (capital punishment) for corruptors in Indonesia. Moreover, corruption is qualified as an extraordinary crime so it needs extraordinary handling as well.

1. Introduction

Behaviors, attitudes, statements are not always held fast as commitment to oneself. Psychological disorders of a law will be tested when faced with the lure of a pile of banknotes with fantastic nominal value. The phenomenon of the above situation and position as well as the facts have proven in the statement of a former Chief Justice of the Constitutional Court, Judge M. Akil Mochtar who is currently serving a life sentence for corruption, as quoted by Muhammad Yusuf (2013), his statement when it highlighted the existence of corruption in Indonesia, with: "Corruption in Indonesia has reached its pulse. Corruption in this country is so severe, deep-rooted, even entrenched. Corruption

practices occur in almost every layer of the bureaucracy, both legislative, executive and judicial, and have also spread to the business world. Like a disease, corruption is a chronic disease, so it is very difficult to treat it".

Conscious or not, remember or not M. Akil Mochtar once made a statement of his attitude towards the corruption pandemic that occurred in Indonesia like that of the former Chief Justice of the Constitutional Court and former Advocate, now for him to be a material for self-reflection and introspection, to be aware of his actions that have denied the principle his life, violated the oath of office when he was appointed as a high state official in various top positions in a country based on the Pancasila state law and ideology. Rice has become porridge, regret always comes later. Hopefully now for him arises a sense of regret accompanied by an attitude of repentance as an effort to redeem the great sins he has done for the nation and nation of Indonesia.

The act of the corruptor who caused the greatest sin for him was to betray the goals of the proclamation of the country on August 17, 1945 which had a significant impact on the actions of harming the country's finances and disrupting the economy. Corruption phenomenon in Indonesia as described above is related to the fact according to the findings of Transparency International Indonesia (TII) released its data that the Corruption Perception Index (CPI), that the existence of Indonesia's position in 2019/2020 shows the score of the Indonesian Perception Index currently at position number 40 with the highest score of 100, CPI assessment is based on a score of 0 (zero) with very corrupt qualifications, and with a score of 100 (one hundred) means a country is free from corruption. When viewed according to the ranking of the position of the countries in the world, Indonesia is in the ranking of 85 (eighty-five) of the 180 (one hundred eighty) countries surveyed.

The Percepcy Corruption Index refers to the existence of 13 (thirteen) surveys and from expert assessments to measure public sector corruption in 180 countries and territories in the world. According to his findings, that Indonesia's position at the level of corruption is the same as 5 (five) countries such as Burkina Faso, Guyana, Leshoto, Kuwait, and Trinidad and Tobago, then overtake Indonesia. When explored further, that the most corrupt countries according to TII's findings are the Countries of Somalia, South Sudan, Syria, Yemen and Venezuela. The opposite situation, countries clean of corruption according to the results of an initial survey in 2020 with a score of 87 is in the countries of Denmark and New Zealand, followed by Finland with a score of 86, and there are 3 (three) countries having the same score of 85, these countries are Singapore, Sweden and Switzerland.

Related to the amount of state financial losses that cannot be recovered into Indonesian state treasury, according to a search from ICW (Indonesian Corruption Watch), in the range of 2018 it reached a quite fantastic amount with a nominal value of 9.29 Trillion Rupiah. And according to ICW data, there are 271 cases recorded of corruption that occurred throughout 2019, with state financial losses reaching 8.4 Trillion Rupiah, with 580 corruptors. As one example of corruption in Indonesia that occurred in 2019 involving a public official/ state organizer (in this case the East Waringin City Regent with the initials SH) with the mode of issuance of mining business licenses which turned out to be fabricated and fictitious resulting in state financial losses ranging 5.8

Trillion Rupiah

(https://nasional.kompas,com/read/2020/01/23/16565951/indeks-persepsi-korupsi-indonesia-pada-2019 naik-jadi-40).

Based on the phenomena and facts above, it shows that the criminal acts of corruption that occurred in Indonesia where the perpetrators involved public officials and state administrators prove that the corruption that occurred as a cause of the decline in national development activities. The amount of state financial losses that have not been returned to the state treasury which is unknown is the main cause of obstruction of the mandate of the Opening of the 1945 Constitution of the Republic of Indonesia. The Indonesian people who are just and prosperous and prosperous still remain mere dreams and delusions.

Based on the background explanation above, the problems of this writing are: (1). Why are there no corruption perpetrators sentenced to death in Indonesia? (2). How is the formulation policy for capital punishment for perpetrators of corruption in the perspective of ius constituendum? This writing is an original scientific paper or it is not the same as other previous scientific papers. The scientific papers related to this topic with other previous scientific papers include: (1). "The Criminal Law Formulation Policy in Corruption Crime Mitigation", written by Ridwan, from Diponegoro University, Semarang, with the formulation of the problem: a. What is the policy on the formulation of corruption in the current legislation? b. What is the policy formulation for the upcoming corruption? (2). "The Existence of the Corruption Eradication Commission in Corruption Judiciary in Indonesia", written by Abdul Kholik, M. (2011), from the Islamic University of Indonesia, in 2011, with the formulation of the problem: a. Does the Corruption Eradication Commission need to coordinate with the Attorney General's Office? B. What is the form of cooperation between the KPK and the prosecutor's office in eradicating corruption in Indonesia? (3). "Analysis of the Corruption Criminal Prosecution Authority by the Corruption Eradication Commission (KPK) and the Prosecutor's Office according to Indonesian Positive Law", written by Syabilal Jihad, in 2018, with the formulation of the problem: a. Is there no dualism in prosecuting corruption in Indonesia? b. What are the criteria in the prosecution of corruption cases carried out by the Corruption Eradication Commission (KPK)?

Based on the presentation in the form of the title and formulation of the problems that existed in the previous scientific writings above, compared to the writings of the author, both the title and the problem are different. The author presents the title regarding capital punishment for corruptors, with the problem of why corruptors in Indonesia are not sentenced to death by law and in

the future policies need to have a formulative policy regarding capital punishment for corruptors.

2. Research Method

This research uses normative legal research, according to I Made Pasek Diantha (2017), stated that normative legal research is a method that examines positive legal rules of internal perspective, the object of research is legal norms. The approach used in this scientific work is in the form of a legal approach and a case approach. Sources of legal materials used are primary legal materials related to applicable laws relating to corruption such as the Corruption Eradication Act, the UN Convention concerning Corruption Crimes (UNCAC and UNCATOC). Secondary legal materials include the results of previous research, legal textbooks, scientific journals, newspapers, and tertiary legal materials such as dictionaries, encyclopedias, and internet sites that are relevant to the problem under study.

3. Results and Discussion

3.1. Essence of Corruption and Death Penalty

3.1.1. Terminology, Definition, Characteristics and Impact of Corruption

The term corruption is etymologically derived from Latin, namely "corruptio" or "corruptus" which then appears in many European languages such as English and French, namely "corruption", in Dutch "korruptie" which subsequently also appears in the Indonesian treasury: corruption, which can mean like being bribed (Hamzah, 1995). Corruption also comes from the word "corrupteia" or "bribery" which means to give or give it to someone so that the person has done for the benefit of the giver, or also means seducation which means something that is interesting for someone to deviate (Koeswadji, 1994). The interesting thing is usually associated with power, which is generally in the form of bribery, embezzlement and the like.

The term corruption in the Indonesian General Dictionary as concluded by Poerwadarminta is a bad act such as embezzlement, receipt of bribes and so on. Regarding the term corruption itself, according to Sudarto (2007), it began to be general in nature and only became a legal term for the first time in the Military Ruling Regulation Number PRT/PM/06/1957, concerning Eradicating Corruption.

In the legal sense as affirmed in Act Number 31 of 1999 concerning Eradication of Corruption, as amended by Act Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption. Corruption is a disease that often occurs especially in developing countries like Indonesia, where the development of Indonesia's corruption is

considered by some experts to be very alarming. M. Abdul Kholik (2011) stated: "For the Indonesian people, it seems to have been destined as a problem that seems to never run out to be discussed". Even the Working Team of the National Commission on Human Rights noted, there are fundamental issues for hampering the fulfillment of the protection and respect for human rights and placing corruption as the main factor hampering such protection (Amidhan, 2006). Thus the acute corruption in Indonesia, Azhar (2009) stated: "That corruption is a social disease that is universal and has occurred since the beginning of the human journey".

Such a broad impact on corruption will basically be a very serious threat to the survival of the nation and state. Even Romli Atmasasmita (2005) stated: "That the problem of corruption has become a serious threat to the stability and security of the national and international community". On the basis of such conditions there is a lameness in the portion of income received by various groups of people referred to as relative inequality or there is an absolute level of poverty. (absolute poverty). Such conditions are certainly the most disadvantaged are the people at the grassroots level, which should receive welfare guarantees in accordance with the guarantees set forth in the constitution.

This is confirmed in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia: "The earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Constitutionally the people's welfare is a human right that must be realized by the government as the organizer of the state, one of the efforts is the utilization of existing natural resources, which in its use is for the greatest prosperity of the people (Ridwan, 2009). As a rich country with all abundant natural resources, it is inappropriate for the Indonesian people to live in poverty and misery with a variety of sadness, from malnutrition to the problem of inability to fulfill decent living needs and adequate health.

Corruption with such a broad impact that according to the UN Convention in the UNCAC-2003 protocol (United Nations Convention Against Corruption-2003) which is a translation of the United Nations Convention on UNCATOC (United Nations Convention Against Transnational Organized Crime-2000), that corruption crime is interpreted as a crime serious because according to Tom Obokata (2015): "That corruption according to the convention is intended to get directly or indirectly financial or other material benefits".

The qualifications of corruption crimes besides being classified as extraordinary crimes have also penetrated jurisdictions across national borders. Transnational crime is given meaning or understanding by Passas N. (2003) as follows: "Cross-border

crime is behavior that endangers the interests protected by law in more than one national jurisdiction and is criminalized in at least one of the countries or jurisdictions related ".

Corruptors often run and hide outside the jurisdiction of their home country to make it difficult to find them to be arrested and processed legally. So the corrupt home government requires cooperation between countries and between law enforcers through bilateral and multilateral legal means among countries parties to the 2003 UNCAC convention. In fact, according to Harkristuti Harkrisnowo (2002): opportunity or means available to him". According to Marella Buckley (2003): "Corruption is the misuse of public office for personal gain through bribery or illegal commissions". In line with the opinion above, Indriyanto Seno Adji (2006) stated: "It is undeniable that corruption is a White Collar Crime with actions that always undergo dynamic mode of operation from all sides so that it is said to be Invisible Crime whose handling requires criminal law policies".

This criminal law policy must certainly have the characteristics of the values of justice that can be felt by all Indonesian people, so the main consideration is in favor of the people's economic interests or the public interest. Regarding actions that include corruption, Carl J. Friedrich, as quoted by Martiman Prodjohamidjojo (2009), argues that:

"The pattern of corruption can be said if a person holds the authority that is authorized to do certain things such as an official who is responsible through money or some other kind of gift that is not permitted by law; persuading to take steps that help anyone who provides gifts and thus truly endanger the public interest." Responding to this corruption problem, Robert Klitgaard (2008) critically states that "Corruption exists when someone illegally places personal interests above the interests of the community and something entrusted to him to do so. Corruption takes many forms and can range from small to monumental. Corruption can involve misuse of policies, tariff provisions, and credit, irrigation and housing system policies, law enforcement and regulations relating to public safety, contract implementation and loan repayment or involve simple procedures. That can happen to the private sector or the public sector and often occurs in both sectors simultaneously. It can be widespread, in a number of developing countries, corruption has become systemic. Corruption can involve promises, threats or both; can be started by a civil servant or community concerned, can involve illegal or legitimate work; can be inside or outside public organizations. The boundaries of corruption are very difficult to define and depend on local laws and customs".

According to the author, the formulation given by Robert Klitgaard above shows that corruption is a crime that is of extraordinary quality and quantity and can significantly undermine the interests of the people's economy. Ronny Rahman Nitibaskara (2005) even stated: "Corruption in our society has become endemic which is difficult to overcome. Corruption is not an extraordinary crime, only the quality and quantity of breeding is extraordinary".

3.1.2. Existence of Death Penalty and its Relationship with Corruption

In the legal literature, not enough is found in the notion of capital punishment by scholars or legal experts. Most notions of capital punishment are found in language dictionaries, which also use the term "capital punishment". Yon Artiono Arba'i (2012), uses the term death sentence and interprets it by quoting the meaning of the Big Indonesian Dictionary. According to him, the death sentence was defined as "a sentence carried out by killing a guilty person". In addition to using the term death sentence, in the Big Indonesian Dictionary also found the term death sentence which is interpreted as: "Criminal form of revocation of the life of the convict". A death sentence can also be interpreted as a criminal or reaction to or misery in the form of death imposed on a person who commits a criminal offense, whereas the meaning of death taken from the word basic death means the loss of a person's life or no longer alive. This death will occur through the failure of the function of one of the three pillars of life (Modi of Death), namely: brain (central nervous system), heart (circulaty of system), and lungs (respiratory of system)" (Amri, 2007).

Capital punishment is the heaviest of all types of basic crimes, so that it is only threatened against certain perpetrators. So far the need for capital punishment to be threatened against perpetrators raises many opinions. Capital punishment is exceptional in nature, meaning that capital punishment is only handed down by judges if absolutely necessary. Capital punishment is always threatened alternatively with other basic crimes, this is the choice of the judge so that the death penalty is not carried out arbitrarily. If a person is found guilty by a judge found guilty of a serious crime as a crime threatened with capital punishment, the judge can impose capital punishment. In practice, the execution of capital punishment can be postponed until the President gives Fiat Execution, meaning that the President approves the implementation of capital punishment to the convicted person (Lumintang, 2010).

In law enforcement for crimes that are extraordinary and serious in nature, capital punishment sanctions are still relevant to be carried out, according to Hendarman Supandji (2008) Indonesia still requires capital punishment as a threat to prevent and frighten potential criminal offenders. The same thing is also illustrated that capital punishment sanctions need to be maintained in order to prevent and eradicate serious and other serious crimes such as narcotics abuse and other extraordinary crimes (Winandi & Lukito, 2010).

Based on the history of capital punishment is not a criminal form that is relatively new in the course of the Indonesian nation. This death sentence has been known since the days of the kingdoms. In positive Indonesian law we recognize the existence of capital punishment or capital punishment. In the Criminal Code Chapter II regarding Criminal Law, Article 10 states about various types of criminal acts, which consist of basic and additional crimes, and capital punishment including the main criminal types which rank first. Other laws and regulations in Indonesia also include threats of punishment in the form of capital punishment, for example RI Law 7/Drt/1955 concerning Economic Crimes, RI Law 35/2009 concerning Narcotics and Psychotropic Crimes, Republic of Indonesia Law Number 31 of 1999 as amended by Republic of Indonesia Law Number 20 of 2001 concerning Eradication of Corruption, Indonesian Law Number 26 of 2001 concerning Crimes Against Human Rights and Indonesian Law Number 5 of 2010 about Terrorism.

Roeslan Saleh (1978) said that the Indonesian Penal Code limits the possibility of capital punishment for a number of serious crimes. What is meant by serious crimes are:

- "Article 104 (plots against the president and/or vicepresident);
- Article 111 paragraph 2 (inducing a foreign country to be hostile or to fight, if hostility is carried out or become a war);
- Article 124 paragraph 3 (assisting enemies during war);
- Article 140 paragraph 3 (treason against the king or head of friendly countries planned and resulting in death);
- 5. Article 340 (premeditated murder);
- 6. Article 265 paragraph 4 (theft by force resulting in serious injury or death);
- Article 368 paragraph 2 (extortion with violence resulting in serious injury or death);
- Article 444 (piracy at sea, coast and river resulting in death)".

Debate arose when many people began to ask whether capital punishment was still relevant or appropriate as a punishment in Indonesia. The question was asked not without reason, but most of them consider capital punishment violates Human Rights (HAM), namely the right to life. That right is contained in the

1945 Constitution of the Republic of Indonesia NAD Article 28A which states: "Every person has the right to live and has the right to defend his life and life". Based on this understanding they assume that the right to life is the most fundamental right and cannot be reduced under any circumstances (non derogable rights) (Lubis & Lay, 2009).

Both the pros and cons, the reasons given all rely on Human Rights (HAM). It is necessary to elaborate on the arguments for both, of course by still referring to national law (Waluyadi, 2009). The tendency of experts who agree with capital punishment is still maintained, generally based on conventional reasons, namely capital punishment is needed to eliminate people who are considered endangering public or state interests and are deemed irreparable, while those who are contravened of capital punishment usually make excuses capital punishment is contrary to human rights and is a form of crime that cannot be remedied if after the execution is carried out an error is found in the sentence handed down by the judge.

Regarding Human Rights (HAM), in Indonesia also protects it with laws and regulations. This is indicated by the existence of a law regulating human rights, namely RI Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law). In this Human Rights Law, the right to life is listed in Article 9 paragraph (1) which states:

"Everyone has the right to life, maintain life, and improve their standard of living. The right to life is even inherent in newborn babies or people sentenced to death. In cases or circumstances that are extraordinary, namely in the interest of his mother's life in an abortion case or based on a court decision in a capital punishment case, then the act of abortion or capital punishment in that case or condition, may still be permitted. Only in these two cases can the right to life be restricted".

At a glance the article above does not mean the meaning of the provisions of Article 28A of the 1945 Constitution of the Republic of Indonesia which states: "Every person has the right to live and has the right to defend his life and life". Based on the explanation of Article 9 paragraph (1) of the Human Rights Law, it can be underlined in the sentence ".... based on the court's decision in the case of capital punishment, the act of abortion or capital punishment in this case or condition, can still be permitted ..." so that it can the conclusion is drawn, that in these circumstances the right to life can be removed.

That in the context of Indonesia was confirmed in the Constitutional Court Decision Number 2-3/PUU-V/2007 concerning Judicial Review of Law Number 22 of 1997

concerning Narcotics which states that in the future the formulation, implementation, and implementation of capital punishment should pay attention to the four important things, namely:

- "First, capital punishment is no longer a basic crime, but as a special and alternative crime;
- Second, the death penalty can be sentenced to a tenyear probation which if the convicted convict behaves can be amended with a life sentence of 20 years;
- Third, capital punishment cannot be imposed on minors:
- 4. Fourth, the execution of capital punishment against pregnant women and mentally ill people is suspended until the pregnant woman gives birth and the mentally ill convict is declared healed".

At present in the Criminal Code Bill, capital punishment is a specific primary crime and is always threatened by alternatives. Although not included as a principal crime, capital punishment is still recognized as a special form of primary crime.

3.1.3. Policy on the Formulation of Death Penalty Threats in the Corruption Eradication Act

According to Robert R. Mayers and Ernest Greenwood, as quoted by Sultan Zanti Arbi and Wayan Ardana (1997), the term "policy" is taken from the terms "policy" (English) or "politiek" (Dutch). Related to the substance of criminal law policies, according to Barda Nawawi Arief (2002):

Basically, the problem of criminal law policy is not merely legal engineering work that can be done in a normative and systematic dogmatic manner. Besides factual juridical approaches can also be in the form of a sociological, historical and comparative approach, even requiring an integral approach to social policy and national development in general.

Barda Nawawi Arief (2002) further stated, the pattern of the relationship between penal policy and crime prevention efforts must be used with an integral approach and there is a balance between "penal" and "non-penal". Prevention and crime approach by means of "penal" is a "penal policy" or "penal law enforcement policy" whose function is through several stages, namely:

- a. "Formulation (legislative/legislative policies);
- Application (judicial/judicial policy), which is the stage of applying criminal law by law enforcement officials from the police to the court, which can also be referred to as the stage of judicial policy;

Execution (executive/administrative policy), which is
the stage of implementing criminal law which can also
be called the executive or administrative policy stage"
(Mulyadi, 2012).

Efforts and policies to make good criminal law regulations in essence cannot be separated from the purpose of overcoming crime by using criminal penalties. Crime prevention efforts with criminal law are essentially also part of law enforcement efforts (specifically criminal law enforcement). Because of this, it is often said that criminal law policies are part of the law enforcement policy.

The policy of regulating death penalty formulations in the Corruption Eradication Act is currently only 1 (one) article that regulates it, namely in Article 2 paragraph (2) and supplemented with the Elucidation of Article by Article in Article 2 paragraph (2). The full article cited again in Article 2 paragraph (2) and its explanation in the Corruption Eradication Law, namely:

- Article 2 paragraph (2): "In the event that a criminal act of corruption as referred to in paragraph (1) is carried out under certain circumstances, the death penalty may be imposed".
- Elucidation of Article 2 paragraph (2): "What is meant by certain circumstances in this provision is a condition that can be used as a reason for criminal prosecution for corruptors, that is if the crime is committed against funds intended for the handling of a state of danger, natural disaster national level, countermeasures due to widespread social unrest, overcoming the economic and monetary crisis, and repetition of criminal acts of corruption ".

It must be admitted, with the inclusion of the formulation of capital punishment in the Corruption Eradication Act on the one hand shows the seriousness and serious intentions of the government and also the Parliament to eradicate or at least reduce the crime of corruption, which is in the statutory regulations the existing regulations on capital punishment were never stated. Nevertheless, it must also be stated honestly, the formulation policy or formulation of the death penalty listed in the Corruption Eradication Act thus gives the impression of "seriousness" of the legislators to implement the death penalty and contains several weaknesses.

Some weaknesses in the Corruption Eradication Act related to the formulation of capital punishment (Article 2), according to the author, can be summarized in 2 (two) types of weaknesses, namely:

- 1. Formal Weakness;
- 2. Material Weakness (substance).

Formal weaknesses, i.e. weaknesses related to the problem of compilation and/or editorial choice of sentences, namely in the case of: The use of the phrase "certain circumstances" and "can" be dropped. That the formulation of "certain circumstances" which is the reason for the imposition of a criminal offense for the death penalty can not be formulated clearly and clearly in the formulation of the article. In various formulations of the law both inside the Criminal Code and outside the Criminal Code, "certain circumstances" which are the reasons for criminal charges are generally formulated explicitly and clearly in the formulation of the relevant offense. In the Criminal Code for example, criminal charges for abuse in Article 356 of the Criminal Code and criminal charges for theft in Article 365 of the Criminal Code, all of them are stated explicitly and clearly in the formulation of these articles. Likewise, the formulation of articles which includes capital punishment in the Narcotics Act or the Terrorism Act.

The formulation of "certain circumstances" contained in Article 2 paragraph (2) of the Corruption Eradication Act which is the reason for the imposition of capital punishment was not formulated explicitly and clearly in the formulation of the article, but was included in the Elucidation of Article 2 paragraph (2) of the Eradication Act Corruption Crime. This condition creates a blurring of norms because an explanation both general explanation and article by article explanation in a statutory regulation cannot be used as a basis for making new regulations and may not contain or create new norms. This is in accordance with Appendix I of RI Law Number 12 of 2011 concerning Formation of Laws and Regulations number 177, which is explained explicitly: "Explanation cannot be used as a legal basis for making further regulations and may not include formulations that contain norms".

The formulation of the phrase "can" be dropped stated in the formulation of Article 2 paragraph (2) of the Corruption Eradication Act also has clearly caused bias in its implementation because it depends on the subjectivity of law enforcement, in this case the judge who hears and decides cases of corruption the. The formulation of the phrase "can" in its implementation will be interpreted "can be applied" or "can also not be applied". In this context the judge can use his authority to interpret the phrase "can" as "can be sentenced to death" or vice versa "can not be sentenced to death".

As an illustration in RI Law Number 30 Year 2014 concerning Government Administration, Article 23 letter a and its Explanation are stated: "One of the discretion of a government official is characterized by the word" can "which means a choice to implement or not implement a decision and/or action. Sounds Article 23 letter a and the explanation as follows:

- Article 23 letter a:

 Government Officials' discretions include:
- "Decision making and/or action based on statutory provisions that provide a choice of decisions and/or actions";
- Explanation of Article 23 letter a: "Choice of Decisions and/or Actions of Government Officials is characterized by the word can, may, or be given authority, rights, should, be expected, and other similar words in the provisions of the legislation. Whereas what is meant by the choice of decree and/or action is the response or attitude of the Government Official in implementing or not implementing Government Administration in accordance with the provisions of the legislation".

Material weaknesses (substantial), namely weaknesses related to the substance or content of the article, namely:

- 1. According to Barda Nawawi Arief (2012), capital punishment as a criminal charge is only threatened for certain corrupt acts as in Article 2 paragraph (1) of the Corruption Eradication Act, namely: "Committing acts of enriching oneself or other people or corporations in violation of the law". When referring to the General Explanation of the Law on the Eradication of Corruption, the aim of the Law on the Eradication of Corruption is to eradicate "every form of corruption". With the formulation of the death penalty in the Corruption Eradication Act only for the types of acts as stated in Article 2, it means that capital punishment is not possible to be imposed on criminal acts other than and the rest.
- The formulation of criminal threats in Article 2
 paragraph (2) of the Law on the Eradication of
 Corruption is a criminal offense against offense in
 Article 2 paragraph (2) which is threatened with life
 imprisonment or a maximum prison sentence of 20
 years.

Corruption is threatened with life imprisonment or a maximum imprisonment of 20 years in the Corruption Eradication Act not only criminal offenses as stated in Article 2 above. Some formulations of types of criminal acts contained in the Corruption Eradication Act which are threatened with life imprisonment or a

maximum sentence of 20 years imprisonment include: Abuse of authority/opportunity/facility/because of office or position (Article 3); Acceptance of Bribery (passive bribery) by civil servants/state administrators, judges and advocates (Article 12). When viewed from the nature of corruption as an offense for office, the act of "abusing the authority of the office/position" (Article 3) and "accepting bribes by civil servants/state abuse, judges and advocates" (Article 12), the substance is more reprehensible than "enriching themselves", or at least it must be viewed as equal and therefore also deserves to be threatened with capital punishment, especially the offense of bribery is the most prominent in various corruption cases so far.

- The imposition of capital punishment in Article 2
 paragraph (2) is only aimed at "people". There are no
 criminal charges against corporations that commit acts
 of corruption in "certain circumstances" as mentioned
 above. Although capital punishment cannot be
 imposed on corporations, there should also be
 criminal charges for corporations whose weight can be
 identified with capital punishment, for example by
 revocation of business licenses for ever or corporate
 dissolution/closure.
- 2. The formulation of the existence of "certain conditions" required in the Elucidation of Article 2 paragraph (2) of the PTPK Law is very difficult to fulfill or rarely occurs. "Certain circumstances" according to Barda Nawawi Arief are "conditional/situational reasons". These conditional/situational reasons include: the state is in danger, there is a national natural disaster, and there is a monetary economic crisis.

According to the author, "conditional/situational reasons" as stated by Barda Nawawi Arief mentioned above will indeed be difficult to realize or occur. This is based on the juridical meaning and the opinions of scholars regarding "certain circumstances" namely:

- Hazard Management;

The regulation regarding the state of danger or "State emergency" is regulated in Article 12 of the 1945 Constitution of the Republic of Indonesia which reads "The President declares a state of danger. The conditions and consequences of the hazard situation are determined by law. " At present the applicable law is Law (Prp) Number 23 of 1959 concerning Dangerous Conditions. Article 1 paragraph (1) states:

"A state of danger with a degree of civil emergency or military state or state of war, occurs when:

- Security or law order in all regions or parts of the Republic of Indonesia are threatened by rebellion, riots or due to natural disasters, so that it is feared that they cannot be handled normally by equipment;
- The war arises or the danger of war or the rape of the territory of the Republic of Indonesia is feared in any way.
- 3. The life of the State is in danger or from special conditions, it turns out there is or is feared that there are symptoms that can endanger the life of the State ".

Provisions regarding compulsory urgency are also contained in Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which reads: "In the case of compulsory urgency, the President has the right to stipulate government regulations as a substitute for the law." The meaning in the provision of Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia NRI mentioned above, the Constitutional Court has provided an interpretation of the "compelling urgency" in the Constitutional Court's decision Number: 138/PUU-VII/2009. In the ruling, the Constitutional Court is of the opinion that there are 3 (three) conditions for forced coercion as referred to in Article 22 paragraph (1) of the 1945 NRI Constitution, namely:

- "There are circumstances namely the urgent need to resolve legal issues quickly under the law;
- 2. The required law does not yet exist so that there is a legal vacuum, or there is a law but it is not adequate;
- The legal vacuum cannot be overcome by making the law in the usual procedure because it will require quite a long time while the urgent situation needs certainty to be resolved ".

- National Natural Disasters;

The requirements for determining national disasters are regulated in RI Law Number 24 Year 2007 concerning Disaster Management (Disaster Management Law). Article 7 paragraph (2) of the Disaster Management Law states:

"Determination of the status and level of national and regional disasters as referred to in paragraph (1) letter c contains indicators which include:

- a. Number of victims;
- b. Property losses;
- c. Damage to infrastructure and facilities;
- d. Wide coverage of the area affected by the disaster; and
- e. The socio-economic impact caused ".

- Countermeasures due to widespread social unrest; Regarding the meaning of "social unrest", Sulaeman Munandar (2009) gave the following definition:

"That in fact the phenomenon of social unrest that often arises lately is an indicator of the ongoing process of social transformation, in the form of representation of the clash of social values and religious values and that there is a shift in the setting of mastery of strategic resources in the form of power or politics and the economy".

As a result of this social unrest cannot be underestimated, this is because social unrest can break the foundation of the existence of the Indonesian people themselves by reason of differences in ethnicity, race, religion and class. So that acts of corruption carried out in these circumstances will muddy the social atmosphere of the Indonesian people.

- Mitigation of the Economic and Monetary Crisis;

According to economists, the understanding of the economic crisis is simply: "A condition where a country whose government cannot be trusted by its people, especially financial problems (Sari, 2016). Identification of variables that potentially cause a monetary crisis, namely:

- a. "Economic growth;
- b. Exchange Rates (Exchange Rates);
- c. Total Money Supply;
- d. Inflation;
- e. Interest rate;
- f. Composite Stock Price Index;
- g. Balance of Payments;
- h. Debt Payment Ratio (Debt Service Ratio (DSR)" (www.bi.go.id:http://www.go.id).

Barda Nawawi Arief said, related to "certain circumstances" in the form of "crime countermeasures" (recidive) which he referred to as juridical reasons, the most likely to occur. In this case the authors disagree. In terms of meaning, repetition of a crime or known as a recidive is the behavior of someone who repeats a criminal act after being convicted by a decision of a judge who has permanent legal force because the criminal act has been committed first. A person who often commits a criminal act, and because of his actions that have been sentenced to a criminal even more often sentenced to a criminal is called a residivist. If the residive shows the behavior of repeating a crime, then the residivist refers to the person who commits the repeat of the crime (Ali, 2015).

In the context of repetition of corruption, this is very difficult to do. This is because the repetition of corruption is also influenced by one of the positions held by the perpetrators, in this case the residivist of the criminal act of corruption must be in the same position as in the previous corruption.

Based on the explanation above related to the formulation of the death penalty in the Corruption Eradication Act which left many weaknesses, according to the author, the policy of the formulation of the death penalty in the Corruption Eradication Act is very difficult to implement so it is not surprising since the enactment of the Corruption Eradication Act in the year. 1999 up to now, which has been running for 20 (twenty) years, there has not been a single person who has committed a criminal act of corruption (corruptor) who has been sentenced to death. Therefore, it becomes a very urgent need to immediately amend the Corruption Eradication Act which regulates the death penalty formulation policy in the Corruption Eradication Act more explicitly, clearly and comprehensively.

In order to better anticipate the future (futuristic) so that it will not be more tragic repetition of corruption cases until there is a verdict free of corruptors from a judge who examines and decides the accused of corruption, if a verdict occurs (vrijspraak) in a criminal act of corruption will clearly bring a bad impression and precedent for the world of justice, ordinary people of the law are still difficult to accept the existence of a free verdict (vrijspraak/acguittal) if the defendant is a corruptor. There have been many studies on acquittal in corruption cases, but it has been hindered from being able to influence the facts and phenomena concerning criminal acts which are classified as very detrimental to the nation (Pasaribu, et al. 2008).

3.2. Legal Construction of Death Criminal Threats in Corruption Perspective Ius Constituendum

The criminal law formulation policy in the framework of tackling future criminal acts of corruption has actually been pursued, namely through the drafting of a Law (RUU) on the Eradication of Corruption (2015 PTPK Draft Bill) (http://reformasihukum.org/file/peraturan/RUTipikor). The draft bill refers to the 2003 United Nations Convention Against Corruption (UNCAC) convention, in which the consideration of the Corruption Eradication Bill was emphasized:

"Whereas with the 2003 United Nations Convention Against Corruption (UNCAC) ratification (2003 Anti-Corruption Nations Convention) with RI Law Number 7 of 2006 concerning Ratification of the 2003 United Nations Convention Against Corruption (2003 Anti-Corruption Nations Convention), then RI

Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by RI Law Number 20 of 2001 needs to be adjusted to the 2003 Anti-Corruption Nations Convention".

The Department of Justice's National Legal Development Agency in the National Criminal Law Reform Symposium, said that:

"The renewal of criminal law is one of the major problems in the development of national law facing the Indonesian people. Renewed criminal law is a comprehensive change that includes renewal of material criminal law (substantive), formal criminal law (criminal procedural law) and criminal implementation law (strafvollstreckungsgesetz). The main purpose of criminal law reform is to tackle crime as it is well known that the three areas of law are very closely related.

According to the "vom psychologishen zwang" theory related to the principle of legality of Von Feurbach, this theory basically recommends that in determining the acts that are prohibited in the regulations not only about the types of actions that must be written clearly, but also about the kinds of crimes that are threatened. In this way, then the person who will commit the prohibited act beforehand has known what criminal will be imposed on him if later the act is committed (Moeljatno, 1978). In the 2015 Corruption Eradication Bill, the definitions or use of terms regarding certain matters in Chapter I (General Provisions) are as follows:

Article 1 of this Law is meant by:

- "Corporation is a group of people and/or assets that are organized, whether they are legal entities or not legal entities;
- 2. Public Officials are:
- Everyone who holds legislative, judicial, or executive positions that are appointed or elected permanently or temporarily is paid or not paid regardless of that person's seniority;
- Everyone who carries out public functions including for the benefit of a public agency or public company or who provides public services based on statutory regulations;
- Everyone who is appointed as a public official in the legislation.
- 3. Foreign Public Officials are:
- Everyone who holds an executive, legislative or judicial position of a foreign country based on appointment or election, including all levels and sections of government;
- Everyone who carries out public functions for the benefit of a foreign country, including public agencies or foreign public companies; or

- Any official or representative of an international public organization.
- Official of a Public International Organization is any international civil servant or any person who is given authority by that organization to act on behalf of that organization;
- Wealth is any form of assets, whether corporate or non-corporate, movable or immovable, tangible or intangible, and legal documents or instruments that prove the rights or interests of these assets;
- Confiscation is a series of investigative actions to take over and/or keep under his control movable or immovable, tangible or intangible objects for the purposes of investigation, prosecution and trial;
- Deprivation is a permanent takeover of assets by a court decision or other authorized body;
- Original Criminal Acts are every criminal act that results in a criminal offense that is the object of another crime;
- 6) Criminal Action Results are any assets obtained directly or indirectly from a criminal act; 7. Gifts or promises are any forms that provide benefits or enjoyment for those who receive"

The definitions set out in Chapter I (general provisions) mentioned above seem to adjust to the editors at the 2003 UNCAC convention, namely:

Article 2. Use of terms:

For the purposes of this Convention:

- "Public official" shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;
- "Foreign public official" shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed

- or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;
- "Official of a public international organization" shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;
- d) "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets:
- "Proceeds of crime" shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;
- f) "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, nconversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- g) "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;
- h) "Predicate offence" shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 23 of this Convention".

Some of the articles on corruption in the 2015 Corruption Eradication Bill seem to be adjusted to the editors of the 2003 UNCAC Convention, which are regulated in several articles, including:

- Article 2 of the Corruption Crime Eradication Bill:
- "Any person who promises, offers, or gives directly or indirectly to a Public Official an improper advantage for the benefit of the official himself, another person or the Corporation, so that the official does or does not do anything in the performance of his post;
- 2) Public Officials who request or receive directly or indirectly an improper advantage for the benefit of the official himself, another person or the Corporation, so that the Public Official does or does not do anything in the performance of his duties."

The formulation of a criminal offense in Article 2 of the above PTPK Bill is an editorial adjustment in Article 15 of the 2003 UNCAC Convention which is as follows:

- a) "Promises, offers, or giving to public officials, directly or indirectly, undue benefits, for public officials in their official duty capacity or other persons or bodies so that officials act or stop acting in carrying out their official duties:
- b) Requests or acceptance by a public official, directly or indirectly, undue benefit, for the public official in the capacity of his official duties or other persons or bodies so that the official acts or stops acting in carrying out official duties".

As a step in criminal law policy in tackling corruption, the Draft Bill of the 2015 Criminal Code formulates criminal acts of corruption in chapter XXXII regarding criminal acts of corruption, as stipulated in Article 680, Article 681, Article 682 (scope of bribery). Article 683, Article 684, Article 686, Article 687 (Scope of abuse of authority that harms State Finances). In other parts of the category as a criminal act of corruption, it is also regulated in the concept of the 2015 Criminal Code Bill regarding Position Criminal Acts regulated in Chapter XXX Article 655, Article 658, Article 659, Article 660, Article 662, Article 663, Article 664

As a step in criminal law policy in tackling corruption, the Draft Bill of the 2015 Criminal Code formulates criminal acts of corruption in chapter XXXII regarding criminal acts of corruption, as stipulated in Article 680, Article 681, Article 682 (scope of bribery). Article 683, Article 684, Article 686, Article 687 (Scope of abuse of authority that harms State Finances). In other parts of the category as a criminal act of corruption, it is also regulated in the concept of the 2015 Criminal Code Bill regarding Position Criminal Acts regulated in Chapter XXX Article 655, Article 658, Article 659, Article 660, Article 662, Article 663, Article 664.

The nature of the formulation of corruption with the scope formulated in the 2015 Draft Criminal Code Draft is sufficient to provide a deterrent or countermeasure against corruption, especially for White Collar Crimes involving state officials, including law enforcement, as outlined in Article 660 Concept 2015 Criminal Code Bill.

Capital punishment in criminal law reform is still recognized, especially in the context of the Criminal Code Bill. The preservation of capital punishment in the renewal of criminal law is based on the idea of avoiding community demands/reactions that are revenge, emotional, arbitrary, uncontrolled, or extralegal execution. The provision of capital punishment is intended to provide emotional channels/demands of the community, the unavailability of capital punishment in the Act, is not a guarantee

of the absence of capital punishment in reality in the community, therefore to avoid emotions of personal/community revenge that are not rational, it is considered more good and wiser if the death penalty is still maintained its existence in the Act (Arief, 2012). Death penalty charges against perpetrators of corruption have been carried out throughout the course of law enforcement against perpetrators of corruption in Indonesia. This was done by the prosecutor/public prosecutor to the defendant Ahmad Sidik Mauladi Iskandardinata alias Dicky Iskandardinata in the Decision of the South Jakarta District Court No. 114/Pid.B/2006/PN. Jak Cell. that has permanent legal power with the Judicial Review decision is decision Number: 114 PK/Pid.Sus/2008. Based on the decision, it was found that the defendant was legally and convincingly guilty of committing a criminal act of corruption which was carried out jointly and continuously.

The case of the defendant above is carried out jointly and continuously is a reason that aggravates the criminal, so it is not wrong if the prosecutor/public prosecutor in his lawsuit demands the defendant with capital punishment or death sentence. Decision handed down by the judge in the South Jakarta District Court against the defendant Ahmad Sidik Mauladi Iskandardinata or Dicky Iskandardinata is a 20-year prison sentence upheld by the decision of the Jakarta High Court No. 175/Pid/2006/PT.DKI and the cassation ruling namely the Supreme Court's Decision No. 181 K/Pid/2007 and the Judicial Review decision is decision No. 114 PK/Pid.Sus/2008, with a sentence of 20 years imprisonment means that the demands submitted by the public prosecutor/prosecutor were not granted.

Observing from what has been explained above, it is difficult for the judge to give a death sentence to a defendant in a corruption case who commits a criminal act of corruption other than with the reasons stated in the explanation of Article 2 paragraph (2) of the Corruption Eradication Act. According to the author there are a number of things that should be considered or justified in constructing the formulation of the threat of capital punishment in eradicating future criminal acts of corruption (the Corruption Eradication Bill), namely:

"In the formulation of articles governing acts of corruption with capital punishment in the future not only formulated with 1 (one) article provisions but can be formulated with several article provisions, such as regarding the concept of "certain conditions" contained in the explanation of Article 2 paragraph (
 The current Act on the Eradication of Corruption, namely the handling of dangerous situations, national natural disasters, countermeasures due to widespread

- social unrest, handling of economic and monetary crises, and repetition of criminal acts of corruption. The norm arrangement that regulates the limitative conditions must be the norm rather than the substance contained in the explanation so that in imposing capital punishment to the perpetrators of corruption that have fulfilled certain elements of the said condition, it can be implemented properly or imposed.
- 2) If a criminal act of corruption is carried out in an organized manner and continues to be organized; The point in this case is that the act was carried out by more than 1 (one) person in a way that is used very neatly to cover up an act which causes a loss of state finances or the state's economy in large enough quantities. The continuing action referred to in this matter is the act carried out continuously so as to cause financial or economic losses to the country. According to the author, if a criminal act of corruption is carried out with elements that aggravate the crime, namely that together and continuing it is appropriate to be threatened and sentenced to death.
- 3) If a criminal offense is committed by a state official; That the understanding of state officials as regulated in Article 1 Number 4 of the Law of the Republic of Indonesia Number 43 of 1999 concerning Amendment to the Law of the Republic of Indonesia Number 8 of 1974 concerning Personnel of Personnel, State Gazette Number 169 of 1999, Supplement to State Gazette Number 3890 is: "The leaders and members of the highest/highest state institutions as the 1945 Constitution of the Republic of Indonesia and Other Officials are determined by the Law. According to the author, if a criminal act of corruption is committed by a state official, it is appropriate to be rewarded or sentenced to death.
- 4) If corruption is continued with money laundering; Whereas criminal acts of corruption and money laundering constitute 2 (two) criminal acts which are currently rife, not a few people who commit criminal acts of corruption are followed by money laundering, this is done with the intent to clean up the money they get from criminal acts. According to the author it is also appropriate if someone who commits corruption and is aggravated by the crime of money laundering is sentenced to death.
- 5) By providing a minimum sentence of 20 years imprisonment, life imprisonment, and capital punishment. Each refers to the value of the state loss. For example, the State of China which is a capital punishment for perpetrators of criminal acts of

corruption based on the provisions of Article 386 and Article 838 of the Chinese Penal Code which is no less detrimental to the country 100,000 Yuan or Rp. 200,000,000.00 (two hundred million rupiah)" (https://www.kompasiana.com/rekamahrdika/55010e e1a333113e095111e5/perbandingan-uptodate-hukum-cina-dan-indonesia-terkait-korupsi).

By taking the parameters of the value of corruption as applied in the State of China, then if it is applied in Indonesia with the state loss value model for example Rp. 10,000,000,000 (ten billion rupiah), then this will certainly make state officials think again about committing criminal acts of corruption. It also needs to be understood that in the imposition of severe criminal sanctions such as capital punishment many factors such as the ideological-political-sociological-legal aspects (Syamsudin, 2010).

4. Conclusions

Based on the descriptions of the chapter above, conclusions can be drawn to answer the problems contained in this scientific paper, namely:

- The threat of capital punishment in the current laws and regulations on corruption (ius constitutum) is regulated in Article 2 paragraph (2) of the Republic of Indonesia Law No. 31 of 1999 jo. RI Law Number 20 of 2001 concerning Eradication of Corruption Crimes. Since the ratification of the Corruption Eradication Act, no corruption actor has been sentenced to death, this is due to weaknesses in the Corruption Eradication Act related to the formulation of Article 2 paragraph (2), namely the phrase "state Certain "reasons for criminal prosecution were not formulated explicitly in the formulation of the article, also the phrase" certain circumstances "in Article 2 paragraph (2) is further regulated in the Elucidation section of Article 2 paragraph (2) of the Corruption Eradication Act. Such formulation or construction of Article 2 paragraph (2) creates a vague norm. In addition, the existence of the phrase "can" in Article 2 paragraph (2) of the Law on the Eradication of Corruption, gives an understanding that the imposition of capital punishment can be applied or may not be applied.
- 2. The threat of capital punishment in the laws and regulations of corruption in perspective ius constituendum, is associated with the policy formulation of criminal law in the context of overcoming the criminal act of corruption that will actually have been attempted in the process of drafting the Law (RUU) on Eradicating Corruption compiled

based on the 2003 United Nations Convention Against Corruption (UNCAC) Convention. The death penalty should be handed down to corruptors if the criminal act of corruption is carried out in an organized manner, if the criminal act of corruption is carried out by state officials, if the criminal act of corruption is followed by money laundering.

References

- 1. Ali, M. (2015). *Dasar-Dasar Hukum Pidana*, Jakarta, PT. Sinar Grafika.
- 2. Amri, A. (2007). *Ilmu Kedokteran Forensik*. Medan, Bagian Ilmu Kedokteran Forensik, USU Press.
- 3. Amidhan. (2006). Catatan Akhir Tahun 2006 Tentang Perlindungan dan Pemenuhan Hak Ekonomi, Sosial, dan Budaya. Jakarta, Komnas HAM.
- 4. Arba'i, Y.A. (2012). *Aku Menolak Hukuman Mati Telaah Atas Penerapan Pidana Mati*, Jakarta, Kepustakaan Populer Gramedia.
- Arbi, S.Z. & Ardana, W. (1997). Rancangan Penelitian dan Kebijakan Sosial, Jakarta, CV. Rajawali.
- 6. Arief, B.N. (2012). Pidana Mati, Perspektif Global, Pembaharuan Hukum Pidana dan Alternatif Pidana untuk Koruptor. Semarang, Pustaka Magister.
- 7. Atmasasmita, R. (2005). *Pengantar Hukum Kejahatan Bisinis*, Jakarta, Kencana.
- 8. Azhar. (2009). Peranan Biro Anti Korupsi dalam Mencegah Terjadinya Korupsi di Brunei Darusalam, *Article in Journal Litigation, Faculty of Law Unpas*, Bandung, Vol.10
- 9. Buckley, M. & Hans Otto Sano. (2003). *Hak Asasi Manusia dan Good Governance, Membangun Suatu Ketertiban*, Jakarta, Depkumham.
- 10. Diantha, I M.P. (2017). Metodelogi Penelitian Hukum Normatif Dalam Yuridiksi Teori Hukum, Jakarta, Prenada Media Group.
- 11. Hamzah, A. (1995). *Delik-Dellik Tersebar di Luar KUHP dengan Komentar*, Jakarta, Pradnya Paramita.
- 12. Harkrisnowo, H. (2002). Korupsi, Konspirasi, dan Keadilan di Indonesia, Journal of Dictum, LeIP, Edition I, Jakarta, Lentera Hati.
- 13. Indriyanto Seno Adji, 2006, *Korupsi Kebijakan Aparatur Negara dan Hukum Pidana*, Diadit Media, Jakarta.
- 14. Kholik M., A. (2011). Eksistensi KPK dalam Peradilan Korupsi di Indonesia, Article in Journal Law Faculty of Law UII, Vol.11, No.26.
- 15. Koeswadji, H.H. (1994). Korupsi di Indonesia dari Delik Jabatan ke Tindakan Pidana Korupsi, PT. Bandung, Citra Aditya Bakti.

- 16. Lamintang, P.A.F. (2010). *Hukum Penitensier di Indonesia*, Bandung, Armico.
- 17. Lubis, T.M. & Lay, A. (2009)., *Kontroversi Hukuman Mati: Perbedaan Pendapat Hakim Konstitusi*, Jakarta, Kompas Media Group.
- Moeljatno. (1978). Asas-Asas Hukum Pidana, Yogyakarta, UGM.
- 19. Muhammad, Y. (2013). *Merampas Aset Koruptor:* Solusi Pemberantasan Korupsi di Indonesia, Jakarta, Buku Kompas.
- 20. Mulyadi, L. (2012). *Hukum Acara Pidana Indonesia*, Bandung, Alumni.
- 21. National Criminal Law Reform Symposium Organized by the National Law Development Board, Ministry of Justice in Collaboration with Diponegoro University, Semarang, August 28-30, 1980 in the National Criminal Law Reform Symposium, Bina Cipta, Bandung
- 22. Nitibaskara, R.R. (2005). *Tegakkan Hukum Gunakan Hukum*, Jakarta, Kompas.
- 23. Obokata, T. (2015). The Value of International Law in Combating Transnational Organized Crime in the Asia-Pacific, *Asian Journal of International Law*, Vol.07
- 24. Pasaribu, L.H., Jauhari, I & Zahara, E. (2008). Kajian Yuridis Terhadap Putusan Bebas Tindak Pidana Korupsi (Case Study at the District Court of Medan), *Journal of Marcatoria*, Vol.01.
- 25. Passas, N. (2003). Cross-Border Crime and the Interface Between Legal and Illegal Actors, *Security Journal* Vol. 16, No.01.
- 26. Prodjohamidjojo, M. (2009). *Penerapan Pembuktian dalam Delik Korupsi*, Bandung, Mandar Maju.
- 27. Ridwan. (2009). Peningkatan Kesejahteraan Rakyat Melalui Pendekatan Ekonomi Kerakyatan di Kabupaten Serang, *Article in Magazine Dinamika*, Vol.34, No.04.
- 28. Saleh, R. (1978). *Masalah Pidana Mati*, Jakarta, Akasara Baru.
- 29. Sari, P.K. (2016). Identifikasi Penyebab Krisis Moneter dan Kebijakan Bank Sentral di Indonesia: Kasus Krisis Tahun 1977-1998 dan 2008, Scientific Journal of Student Economics Development and Business Economics Unsyah, Vol.01, No.02.
- 30. Soelaeman, M. (2009). *Sosiologi: Suatu Pengantar,* Jakarta, PT. Raja Grafindo Persada.
- Sudarto. (2007). Hukum dan Hukum Pidana,
 Bandung, Alumni.
- 32. Supandi, H. (2008). Eksistensi Pidana Mati dalam Proses Penegakan Hukum di Indonesia, *Journal of European Area Studies*, Vol.04, No.02

- 33. Syamsudin, M. (2010). Faktor-Faktor Sosiolegal yang Menentukan dalam Penanganan Perkara Korupsi di Pengadilan, *Journal of Law*, Vol.17., No.03
- 34. Waluyadi. (2009). *Kejahatan Pengadilan dan Hukum Pidana*, Bandung, Mandar Maju.
- Winandi, W. & Lukito, I.R. (2010). Penjatuhan Pidana Mati dalam Tindak Pidana Narkotika, *Journal of Law*, Vol. XIX, No.19 October 2010

Internet References

- 36. Krisis Ekonomi Global dan Dampak Terhadap Perekonomian Indonesia, accessed via: https://www.bi.go.id, on May 25, 2020 at 6:40 pm
- 37. Nasional Kompas.com, *Indeks Persepsi Korupi Indonesia Naik Jadi 40*, diakses dari: https://nasional.kompas.com/read/2020/01/23/16565951/indeks-persepsi-korupsi-indonesia-pada-2019 naik-jadi-40, on April 28, 2020 at 7:30 a.m.
- 38. Perbandingan Uptodate Hukum dan Indonesia terkait Korupsi, accessed via: https://www.kompasiana.com/rekamahardika/550ioee1a33 3113e095111e5/Perbandingan-Uptodate-hukum-dan-indonesia-terkait-korupsi, on May 25, 2020 at 19.34 pm

Laws And Regulations Academic References

- 39. Text and Draft Act (RUU) on the Eradication of Corruption in 2015
- General Assembly Resolution 58/4 of 31 October
 UNCAC, Article 2, Article 15
- Decision of the South Jakarta District Court Number:
 114/Pid.B/2006/PN.Jak.Sel jo. MA-RI PK Decision
 Number: 114 PK/Pidsus/2008
- 42. Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption; Republic of Indonesia State Gazette Year 1999 Number 140; Supplement to the State Gazette of the Republic of Indonesia Number 387
- 43. Law of the Republic of Indonesia Number 30 of 2002 concerning the Corruption Eradication Commission; Republic of Indonesia State Gazette Year 2002 Number 137; Supplement to the State Gazette of the Republic of Indonesia Number 4250
- 44. Law of the Republic of Indonesia No. 7 of 2006 concerning Ratification of the United Nations Convention Against Corruption, 2003; Republic of Indonesia State Gazette Year 2006 Number 32; Supplement to the State Gazette of the Republic of Indonesia Number 4620
- 45. Law of the Republic of Indonesia Number 46 of 2009 concerning Corruption Criminal Court; Republic of Indonesia State Gazette Year 2009 Number 155;

Supplement to the State Gazette of the Republic of Indonesia Number 5074.

WHY ARE CERTAIN STUDENTS FURTHER FROM ACHIEVING THEIR DESIRED LEVEL OF ENGLISH PROFICIENCY?



SCAN ME

Fëllanza CANOLLI MALLET, MSc. C.

South East European University, Faculty of Languages, Cultures and Communications, English Language Teaching Department, fllanza8000@gmail.com

Article history:

Accepted 8 July 2020 Available online 31 August 2020

Keywords:

Teaching Strategies,
English Language Learning,
ELT,
Proficiency,

Motivation and Age.

Abstract

This study deals with proficiency of students towards English Language Learning. It includes ELT strategies that can properly motivate students to learn the language without betraying where they come from. Although many of them are afraid that learning English might assimilate them, therefore, they hesitate to learn English due to their Educational system which makes them fearful of losing their identity.

1. Introduction

One of my concerns regarding certain students relates to their lack of success attaining proficiency of the English language in terms of comprehension, productive skills, or both. Although most students begin their study of the English language in High School, others as early as primary, or even pre-school, the majority still fall short of attaining acceptable levels of fluency. In the context of my pedagogical experience, I found that some students, in a general sense, do not possess a positive attitude towards the English language, often times as a result of the Education System in their countries. This perception and attitude towards the language does not transcend the culture among traditionally English speaking nations, an affect directly related to the globalization of their society. Educators of the English language have discovered that individual motivation of students results in their attainment of higher proficiency levels. This discovery leads us to explore and question whether there are any circumstances which can be introduced into their methodology of teaching that can properly motivate the students to master the English language and truly inspire a desire to learn it.

2. Statement of Purpose

Even though certain students agree that command of the English language is helpful and important to properly understand and interact with expatriates and their cultures, they do not support English as a language of instruction in their schools. Why? Why

aren't they motivated to effectively learn and master the English language? What circumstances may contribute to the motivation of these students to support English as a language of instruction in their schools? What makes these students reluctant to achieve their desired level of English proficiency? Could the Educational System be the central hindrance in the encouragement of students towards learning English?

3. Importance of Study

Examining the relationship between certain students' attitudes towards the English language and its acceptance and the extent of its use in their countries forms the position of the importance of this research. Mastery of the English language assists people of the world in effectively communicating with each other. It is the language of global economy and commerce, of the internet and modern technology. This coincidental fact has inspired citizens of the world to learn English. However, the appreciation for the importance of English as a foreign language in many countries may be deficient in motivating students to take active steps through the learning process and result in their ultimate proficiency in the language. The main incentive that is lacking for these students towards learning English is the infrequency of use and its minimal impact on their daily lives. In fact, learning English is often delayed to adulthood when it becomes a necessity for them to learn in order to successfully function and fulfil their professional needs.

4. Literature Review

There are different aspects of the attitude towards language that have been studied: the relationship between attitudes and motivation (Donitsa-Schmidt et al. 2004, Bernaus et al. 2004, Williams et al. 2002), the relationship between attitudes and learning strategies (Gan2004), the relationship between attitudes and levels of achievement (Graham 2004), beliefs and attitudes about targeted language use, first language use and anxiety (Levine 2003) and also, attitudes towards English language usage among peers (White 2002). According to Gardern (1985: 10), attitudes are a part of motivation in language learning and he defines motivation as the summation of effort plus the desire to achieve the goal of learning language. He declares in 1985, "Learning a foreign language is determined by personality characteristics such as the motivation of knowing foreign people in general and also the motivation to adopt particular factors such as, cultural, contextual, affective and cognitive, among which attitudes have an important place". Based on the above review, it may be determined that attitude is extremely important for certain learners of English to achieve their purpose. The possession of the right attitude may be found in a person, which can be aided in further development by his parents, friends, family, social pressures and perhaps most importantly, by their teachers.

The Aims of this Research are:

- 1. To perform an investigation of the relationship of attitude to learning a language
- 2. To determine the optimal age for beginning to learn a foreign language
- 3. To analyze the effects of the place where the individual started to learn the language within the context of EFL Students in Turkey

5. Research Methods

Data was collected through a questionnaire. The first part of the questionnaire requests personal information: gender, their approximate age when they started to learn English and the place where they started to learn English. The second part of the questionnaire asks the students about their attitude towards the use of English in their countries.

Participants:

The subjects of the questionnaire were students of primary school where English is taught up to 15 hours per week. 48.5% of the group were female students whereas 51.5% of the group were male students. It was revealed that approximately 40.5 % of participants started learning English when they were between the ages of zero and six, whereas 59.5% began at the age of seven and above.

Findings:

Table 1. Result of Descriptive Statistics

Attitude toward English general	s in	Gender		The age of starting to learn English			The place of starting to learn English	
	Female	Male	0-6	7+		In school		In preschool
Beautif ul	4.25 %	3.22 %	4.3 %		2.45 %	2.55 %		2.58 %
Musica l	5.72 %	4.12 %	5.5 %		3.35 %			4.5%
Import ant	6.15 %	5.72 %	5.9	%	4.71 %	4.7		4.83 %
Rich	8.44 %	6.43 %	8.2 %		10.54 10.61 %			10.47 %
Interes ting	9.72 %	8.33 %	9.3 %		13.45 %	13.	.53 6	13.67 %

Regarding gender differences female students were found to have a more positive attitude toward English than male students. The students who started learning English between the ages of zero and six in pre-school possess an attitude towards English as a beautiful, more musical language and important as a language of culture, but students who started to learn English from the age of seven and above found it more interesting and rich. Both groups were shown to have more supportive attitudes towards the general value of English, however, they did have a more negative attitude toward having course books written in English.

6. Result and Discussions

Regarding the observed negative results found in the Turkish students' attitude towards the English Language in Turkey, EFL teachers must come up with new ideas to inspire these students to be more accepting towards English as a language of instruction in their schools. This can be achieved by implementing appropriate methods and activities of teaching English effectively. Certain students wish to have more fluent and accurate English speaking skills in order to help them to understand other cultures.

This is also a good indication for EFL Teachers to use the communicative approach in their classrooms to encourage students to collaborate and discuss their experiences regarding language learning. It will also improve their attitude, passion and enthusiasm to properly acquire their desired fluency in the English language. Furthermore, Educators should meet the needs

and consider the interests of their students so as to adapt to their different perceptions about learning second languages.

Differences in gender, age of exposure to the English language, etc. Additionally, motivations should be encouraged based on the students' needs, or reasons for learning a language. Following the pragmatic values of learning a new language can be conducive to formulating a genuine and special interest among students for a targeted language and the culture of those who speak it.

7. Conclusion

The results of this study show that although the students have a slightly positive attitude towards the English language, they do not have a positive attitude towards speaking English to one another. An example of one of their greater oppositions is, "If I use English, it means that I am not patriotic". It is very strange that students are not tolerant of each other speaking English. The role of the educator must be that of establishing an environment where students are encouraged to practice speaking English with each other. It becomes noticeable that in different EFL contexts, certain students want to learn English to find a well-paying job and earn more money, have a higher social status and be well connected to the global community, but they do not accept practicing English with one another. As the Internet is increasingly diffusing the boundaries on maps, even the smaller businesses in different places are selecting more bilingual employees. If students want to attract attention in today's job market, if they want to be significant, an International perspective is critical. When students speak two languages fluently it opens immensely more doors to opportunities for jobs domestically and abroad. Regarding their attitude towards Western cultures, the findings indicated that more than half of them displayed an interest in the culture of the English speaking world as represented through film.

These results might be further characterized by the students' desires to experience and understand the culture of the West, but not to fully integrate into that culture. Analysis of the data collected shows the majority of students did not feel that learning the language was submitting to biculturalism, or an acceptance of the cultural practices of the English speaking world. A significant amount further articulated their wish to learn about Western culture and broaden their horizons through familiarizing themselves with that culture. Positive attitude and motivation share a connected role in the acquisition of a second language. Despite the fact that there was no direct influence found that attitude contributed to the learning process, it does occupy an important role in the development of motivation. So, a positive attitude should be viewed more as a catalyst to language learning.

When a student possesses an enthusiastic attitude towards learning a language, their motivation for learning that language tends to increase and simultaneously decrease when the attitude towards learning that language is more negative thus making the process of learning more demanding for them. All EFL teachers should take into consideration their students' perceptions, beliefs and behaviour prior to assessing their cognitive abilities. The English syllabus and classroom activities should be formed upon effective purposes according to their students' needs and their individual differences in order to strengthen, among some, and create, among others, a positive attitude towards English. It is crucial to study and account for learners' personalities. Increased performance and proficiency will be accomplished if these students maintain a positive attitude and appreciation for mastery of a targeted language. This is the basis for reaching the conclusion that proper perspective and inspiring a positive outlook towards language learning should be considered when implementing curriculums among educators.

References

- 1. Aydngün, A. & Aydngün, (2004). The Role of Language in the Formation of Turkish National Identity and Turkishness. Nationalism and Ethnic Politics, 10, 415-432.
- 2. Bektas-Cetinkaya, Y. (2009b). Language of others: EFL students' perception of and attitude towards English. Journal of Cukurova University Institute of Social Sciences, 18 (1), 109-120.
- 3. Büyükkantarcioglu N. (2004). A sociolinguistic analysis of the present dimensions of English as aforeign language in Turkey', International Journal of the Sociology of Language –Sociolinguistics in Turkey, G.König (ed.) 165, pp. 33-58.
- 4. Bradford, A. (2007). Motivational orientations in under-researched FLL contexts: Findings from Indonesia. RELC Journal, 38 (3), 302-323.
- 5. Cooper, R. L. and Fishman, J. A. (1977). A Study of Language Attitudes. In Fishman, J., Cooper, R. and Conrad, A. (Ed.). The Spread of English(pp. 239-273). Rowley, MA: Newbury House Publishers.
- 6. Csizer. K. & Dörnyei, Z. (2005). The internal structure of language learning motivation and its relationship with language choice and learning effort. The Modern Language Journal, 89, 19-36.
- 7. Dörnyei, Z. (1994a). Motivation and motivating in the foreign language classroom. The Modern Language Journal, 78 (3), 273-284.
- 8. Gardner, R. C., and Lambert, W. E. (1972). Attitudes and motivation in second language learning. Rowley, MA: Newbury House.

- 9. Kızıltepe, Z. (2000). Attitudes and motivation of Turkish EFL students towards second language learning. ITL Review of Applied Linguistics, 129-130.
- 10. Schumann, J. H. (1978). The acculturation model for second-language acquisition. In R.C. Gingras (ed.), Second Language Acquisition and Foreign Language Learning (pp. 27-50). Washington, D.C.: Center for Applied Linguistics. Retrieved April 12, 2008 from http://www.appling.ucla.edu/jschumann/acculturation.pdf

PRIZREN SOCIAL SCIENCE JOURNAL

LEGAL STATUS OF FLAT UNIT OWNERSHIP CERTIFICATE (STRATA TITLE) IN INDONESIA



I Made Herman SUSANTO, PhD. C. 1 *

Ibrahim R. 002

- 1 University of Udayana, Faculty of Law, Doctoral Study Program (S3) on Science of Law, <u>made.herman.fh@gmail.com</u>,
- 2 University of Udayana, Faculty of Law, Study Program (S3) on Science of Law, ibrahim.fh@yahoo.com

Article history:

Accepted 29 July 2020 Available online 31 August 2020

Keywords:

Legal Status,
Flat Unit Ownership Certificate,
Legal Research,
Conflict.

Abstract

This study seeks to examine the legal status of flat unit ownership rights between Law Number 5 of 1960 and Law Number 20 of 2011; by using normative legal research (statute approach and concept approach), this research concludes: the legal status of flat unit ownership certificate as stipulated in the Law Number 5 of 1960 and Law Number 20 of 2011 cannot be said to have a conflict of legal norms. The difference in interpretation of those laws can be resolved by: (1) The principle of lex specialis derogat lex generale, means specific laws (in this case is Law Number 20 of 2011 concerning Flats) overrides general laws (in this case is Law Number 5 of 1960 concerning Basic Agrarian Law); (2) Article 16 paragraph (1) letter h of Law Number 5 of 1960 concerning Basic Agrarian Law provides: other rights not included in the previously mentioned rights will be stipulated in the law, as well as the temporary rights as referred to in article 53; thus, the term flat unit ownership certificate can be accepted because it does not conflict with applicable laws and regulations.

1. Introduction

Based on Article 17 of Law Number 20 of 2011 concerning Flats, flat can be built on: a. rights of ownership; b. rights to build or utilize on state's land; and c. rights to build or utilize on land with management rights. For land with management rights, the law provides specific arrangements. The developer must clarify the status of the land before selling the flat units. Article 17 of the law states that flat can be built on:

- a. Rights of ownership;
- b. Rights to build or utilize on state's land;
- Rights to build or utilize on land with management rights.

Article 18 provides that in addition to being built on land categories as mentioned in Article 17, public and/or special flats can also be built with:

 The utilization of state's/regional property in form of land;

b. The utilization of waqf (endowment) land.

Article 19 paragraph (1) concerning the utilization of state's/regional property in the form of land for the construction of flat as referred to in Article 18 letter a is carried out by way of lease or utilization cooperation. Paragraph (2) stated that the land referred in paragraph (1) must prove to have been registered with a certificate of land rights in accordance with statutory provisions. In Paragraph (3), the execution of leasing or utilization cooperation as referred in paragraph (1) shall be carried out in accordance with statutory regulations.

Article 20 paragraph (1) provided that the utilization of waqf land for the construction of flat as referred to in Article 18 letter b shall be carried out by way of lease or utilization cooperation according to the endowment pledge. As in Paragraph (2), if the use of waqf land as referred to in paragraph (1) is not in accordance with the endowment pledge, the designation may be changed after obtaining approval and/or written permission from the Indonesian Waqf Board in accordance with the provisions of the legislation. Further regulated in Paragraph (3), the change of the designation as intended in paragraph (2) can only be done for the construction

of public flats. In Paragraph (4) gives condition that the implementation of lease or utilization cooperation as referred to in paragraph (1) is carried out in accordance with sharia principles and legislation. At last, Paragraph (5) states that further provisions concerning the utilization of waqf land for public flats are regulated by government regulations.

Based on the description above, using the normative research method, the question being asked is whether the legal status of flat unit ownership specified in Law Number 20 of 2011 conflict with article 16 of Law No. 5 of 1960 or not?

2. Research Method

The type of research chosen is normative legal research or doctrinal legal research, namely legal research that conceptualizes law as the norm (Wignyosoebroto, 2002), because this research is normative legal research, so as to solve or answer the proposed problems (legal issues), conceptual approach, case approach and historical approach are used (Marzuki, 2011). The legal material from normative research can be divided into three namely,

- Primary legal material, is the main legal material in this study, consists of laws and regulations relating to land.
- Secondary legal law, includes library materials that
 provide explanations about primary legal materials31
 such as books, works from the legal community,
 literature, magazines, newspapers, electronic media as
 well as other data references relating to the issue of
 compensation for land acquisition for development in
 the public interest (Hermansyah, 2009).

The technique of searching primary and secondary legal materials is done by studying literature and internet searching (Rahardjo, 2000). The processing of legal materials is carried out by systematizing written legal materials. Analysis of the materials that have been collected must be done according to methods of analysis or interpretation (interpretation) of known law, such as authentic interpretation, interpretation according to grammar (grammatical), interpretation based on the history of the law (historical wets) or based on the history of law (historical rechtshistoris), systematic interpretation, interpretation, theological interpretation, functional interpretation or futuristic interpretation (as an estimate). Of the several ways of analysis or interpretation (interpretation) the authors choose using systematic interpretation, grammatical (grammatical), teleological interpretation (Abdlatif & Ali, 2010).

3. Results and Discussion

Flat Unit Ownership Rights (FUOR) is a new rights institution which introduced through the Law on Flats (LoF). According to the LoF, FUOR is individual and separated. In addition to ownership of flats unit, FUOR also includes joint ownership rights called "shared parts", "shared land", and "shared objects", which all constituting an integral part of flats unit; since the ownership of flats unit includes the shared land, the flats unit can only be owned by an individual/legal entity who meet the requirements of holding the shared land rights.

Article 46 of Law Number 20 Year 2011 stipulates:

- (1). Flat Unit Ownership Rights is an ownership rights to an individual flats unit which separated from the shared rights over the shared parts, shared objects, and shared land.
- (2). The right to shared unit and shared land as referred to in paragraph (1) shall be calculated based on the Proportional Comparison Value (PCV).

Shared parts are the parts of a flat block which owned separately for shared use in one unitary function. For example: columns, stairs, roof, in-out access of the flats, public rooms, foundations and so on. The shared parts cannot be used by the owner of flat unit because it is a joint right of all the flat unit owners. Shared land is a piece of land that used on the basis of separate joint rights on which flats are built and the boundaries of the building are determined with the permit conditions. Article 17 of LoF determines that flats can only be built on rights of ownership, rights to build or utilize on state's land, and rights to build or utilize on land with management rights. The rights to shared land determine whether or not a person/legal entity to possess a flat unit. Shared objects are objects that not part of the flat but are shared and inseparable for shared use, for example: parks, sports and recreation facilities, fire extinguishers, clean water networks, electricity, gas, telephones, sewerage, drain, garbage bin, elevator/escalator, and others. According to Imam Kuswahyono (2004), the ownership system for multi-story building units is divided into 2 (two):

- 1. Single ownership
- 2. Multi ownership

Single ownership can be seen from the ownership of the land where the high rise building stands, so that the certificate holder is also the owner of the building. The shared ownership system is divided into two, by looking at whether or not there is a legal binding that previously exists between high rise buildings, as follows:

- Bound Joint Ownership, the main basis is the existence of legal binding between the owners. The rules are based on the Regulation of the Minister of Internal Affairs Number 14 of 1975.
- Free Joint Ownership, i.e. between owners there is no prior legal relationship other than the joint rights to be the owner for shared utilizations. The basic rule is the LoF jo. Government Regulation No. 4 of 1988 concerning Flats. This free joint ownership system is known as condominium.

Referring to the above description, land ownership rights on a flats unit in the perspective of law on objects refers to condominium system as regulated in book II of the Civil Code, where individual owners of a Flats unit are the occupants' rights. Beside that, there are common ownership rights over the land where the building is located (common areas) and common property rights over the building facilities (common elements).

In Article 6 and Article 77 of the Government Regulation No. 4 of 1988 concerning Flats, it is stipulated: Flat units can be on the surface of the land, above the ground, below the surface of the land, partly below and partly above the ground level. Flat units must have a direct connection to the exit or have access to public roads. In Article 47 of Law No. 20 of 2011 concerning Flats:

- (1). Proofs of flat unit ownership on land with rights of ownership, rights to build or utilize on state's land, or rights to build or utilize on land with management rights, are issued in form of certificates of Flat Unit Ownership Rights (FUOR).
- (2). FUOR as referred to in paragraph (1) is issued to every person who qualifies as a holder of land rights.
- (3). FUOR as referred to in paragraph (1) constitutes an inseparable unit consisting of:
- A copy of land book and the measurement letter on the shared land in accordance with statutory regulations;
- b. Draw on the floor plan at the level of the related flats which shows the owned flat unit;
- c. Explanation regarding the portion of the right on the shared parts, shared objects, and shared land for the person concerned.
- (4). FUOR as referred to in paragraph (1) shall be issued by the district/municipal land registration office.
- (5). FUOR can be used as collateral for a loan by being burdened with mortgages according to the provisions of the legislation.

When compared with other countries abroad, according to Arie S. Hutagalung (2003), the term "strata title" is more likely to have horizontal joint ownership in addition to vertical ownership. Furthermore, according to Maria SW Sumardjono (2008), strata title is a system that allows the distribution of land and buildings in units called parcels, each of which is a separate right. In addition to individual ownership, it is also known the terms land, objects, and parts, which are common property. In the Housing and Settlement Law, common property is referred as social and public facilities. Based on the Regulation of the Minister of Internal Affair No. 1 of 1987 concerning the Submission of Environmental Infrastructure, Public Facilities, and Social Housing facilities to local governments, the composition is 60% (buildings): 40% (social facilities and public facilities). The concept of strata title can be applied to buildings such as highrise, residential, town houses, factories, offices and retail. According to Djuhaendah Hasan (2008), in several countries including Australia, New Zealand, Singapore, Malaysia and Hong Kong, the problem of providing land ownership for horizontal housing construction was replaced with vertical housing construction using the strata title system, that is a system that regulates the portion of land consisting of layers (strata), namely: the lower and upper layers. Strata is a plural form of stratum which is defined as the following: "stratum means any part of land consisting of a space of any shape below on or above the surface of the land, dimensions of which are delineated".

In order to guarantee legal certainty and legal order in the matter of someone's ownership, it must be within the legal framework of property. One's ownership on a flat unit must have proof on its land rights. According to Arie S. Hutagalung (2003), as proof of ownership rights to a flat unit, a powerful evidential tool is provided in the form of a certificate of ownership rights over the flat units. The form and procedure for the registration of land books and the issuance of FUOR certificates are regulated in the Regulation of the Head of National Land Agency No. 4 of 1989. The administration of FUOR and the issuance of certificates are based on the information/data contained in the deed of the split which has been approved by the regional government. Government Regulation No. 4 Year 1988 concerning Flats establishes that FUOR is one of the products of a series of licensing processes in the flat system that highly dependent on the previous/upstream licensing products, including Location Permits and Building Construction Permits (IMB). The licensing sequence to the certification process must include, among others: location permit, land acquisition, building permit, ratification, livable permit, ratification of the deed of the split for the flats into flat units, registration of the deed of split, and issuance of the FUOR certificate.

The certificate is a proof that acts as a strong evident of the physical data and juridical data contained therein, as long as the physical data and the juridical data are in accordance with the data contained in the measuring certificate and land book of the relevant rights. For flats that stand on leased land which status is the state's land, or an endowments/waqf land, it will issue a Certificate of Building Ownership (SKBG). Unlike the land title certificate, the FUOR certificate and the SKBG which used as collateral will be encumbered with the Mortgage Right, instead of the land. Therefore, the security rights imposed in the FUOR and SKBG are the status of ownership on which the shared parts, the shared objects, and the shared land.

Based on Article 16 of Law Number 5 of 1960 concerning Basic Agrarian Principles, the types of existing rights are: rights of ownership, rights to function, rights to utilize, rights to use, rights to lease, rights for land opening, and rights to collect forest products. Other rights not included above will be determined by law (Setiawan, 2010).

4. Conclusions

Based on the above description, Law Number 16 of 1985 concerning Flats has been replaced by Law Number 20 of 2011 concerning Flats; it cannot be said that there is conflict of norms between Law Number 5 of 1960 on Basic Agrarian Principles in Article 16, and Law Number 20 of 2011 concerning Flats. The difference in interpretation of the above law can be resolved by, first: the principle of lex specialis derogate lex generale, means specific laws (in this case is Law Number 20 of 2011 concerning Flats) overriding the general laws (in this case is the Law Number 5 of 1960 on Basic Agrarian Principles); secondly: Article 16 Paragraph (1) letter h of Law Number 5 of 1960 concerning Basic Agrarian Principles provided: other rights not included in the rights mentioned above will be determined by the law, as well as the temporary rights mentioned in article 53; thus the term certificate of ownership over a flat unit is accepted because it does not conflict with applicable laws and regulations.

References

- Abdlatif and Hasbi Ali. (2010). Perihal Kaedah Hukum. Bandung: Citra Aditya Bakti.
- Hasan, D. (2008). Fungsi Hukum dalam Perkembangan Ekonomi Global. Bandung, Faculty of Law Padiajaran University.
- 3. Hermansyah, N. (2009). Metodologi Penelitian dan Penulisan Hukum, Banjarmasin, STIH-SA Press.
- Hutagalung, A.S. (2003). Condominium dan Permasalahannya. Third Print. Depok, The Agency of Publishing Faculty of Law Indonesia University.

- 5. Ibrahim, J. (2006). Teori & Metodologi Penelitian Hukum Normatif, Malang: Penerbit Bayumedia Publishing.
- Kuswahyono, I. (2004). Hukum Rumah Susun. Malang, Bayumedia Publishing.
- 7. Marzuki,P.M. (2011). Penelitian Hukum, Jakarta: Kencana Prenada Media Group.
- Rahadjo, S. (2000). Ilmu Hukum. Bandung: Citra Aditya Bhakti.
- 9. Setiawan, Y. (2010). Hukum Pertanahan dan Praktik. Malang, Banyumedia Publishing.
- Soekanto, S. dan Mamudji, S. (2004). Penelitian Hukum Normatif, Jakarta: Cetakan ke-8 PT. Raja Grafindo Persada.
- Sumardjono, M.S.W. (2008). Tanah dalam Perspektif Hak Ekonomi, Sosial, dan Budaya. Jakarta, Kompas.
- 12. Wignyosoebroto, S. (2002). Metodologi Penelitian Hukum; Keragaman dalam konsep Tipe Kajian dan Metode Penelitiannya, Surabaya, Universitas Airlangga.

CRIMINAL POLICY IN THE MANAGEMENT OF ROAD TRAFFIC ACCIDENTS



Yulius Harya PAMUNGKAS, PhD. C. 10 1*

Moch. BAKRI 10 2

Prija DJATMIKA 10 3

Rachmad SAFA'AT 60 4

- 1 University of Brawijaya, Faculty of Law, Doctoral Study Program, vulius.fhub@gmail.com *Correspondent Author.
- 2 University of Brawijaya, Faculty of Law, nyoman.fhub@yahoo.com
- 3 University of Brawijaya, Faculty of Law, tunggul.anshari@yahoo.com
- 4 University of Brawijaya, Faculty of Law, heru_hadi.fhub@yahoo.com

Article historu:

Accepted 30 July 2020 Available online 31 August 2020

Keywords:

Criminal Policy, Road Traffic Accident, Management.

Abstract

Acceleration in modern life requires acceleration, including acceleration on the highway. The accumulation of interests that are centralized on this highway creates a conflict of interest that ends in material loss or loss of life. Many road users do not realize that the legal consequences of negligence are categorized as criminal acts because they cause others to suffer. Legal politics the issuance of Law Number 22of 2009 concerning Road Traffic and Transportation as an embodiment of criminal policy to provide legal protection and legal certainty for citizens who are casualties of road traffic accidents. Through criminal policy, it is expected that there will be order, smoothness, security in road traffic and legal certainty and legal protection for road users.

1. Introduction

Road Traffic and Transport is the pulse of the national economy and plays a very strategic role in realizing development and public welfare. This is in line with the aspirations of the Indonesian people contained in the opening of the 1945 Constitution of the Republic of Indonesia. The progress of modern transportation supported by well-ordered roads has certainly had an impact on economic development. The increase in the economy has an impact on changes in human life, where everyone has a target of work and time, which requires high mobility, this condition makes everyone use the road in order to fullfill these things.

The number of road users on the highway, resulting in conflicts of interest on the highway, so that the behaviour of drivers can be varied, ranging from improper parking, breaking red lights, breaking signs, violating road markings, and the most dangerous is a traffic accident road that brings casualties.

So far, the public has not been aware that traffic violations are a type of crime, so that many do violations, and their understanding is limited to being ticketed and paying fines if caught by traffic officers. Sudarto, as quoted by Suhariyono (2012), said that crime is "suffering that is deliberately inflicted on people who commit acts that meet certain conditions". In another book, Sudarto said: "that traditional crime is defined as the misery that is imposed by the state on someone who violates the provisions of the law". According to Moeljanto as quoted in Eddy O.S Hiariej (2016), criminal law is a part of the entire applicable law in a country, which establishes the basics and regulates the provisions of acts that must not be done, prohibited accompanied by criminal threats for those who commit them. When, and in what cases, those who have violated the prohibition, may be subject to criminal sanctions and in what way criminal prosecution can be carried out.

Law Number 22 of 2009 Concerning Road Traffic and Transportation, is a formal legal product in regulating order, smoothness so that the implementation of Traffic and Road Transportation can be carried out safely, securely, orderly, smoothly, and efficiently. This law regulates criminal sanctions for people who commit acts on the road, which results in disorder, non-smoothness and threatens the safety of others.

The provisions of criminal provisions for motorists in Law Number 22 of 2009 concerning Traffic and Road Transportation are regulated in Chapter XX concerning Criminal Provisions, which from articles 273 to article 315 regulates the amount of fines and criminal penalties for everyone who uses the road.

Criminal arrangements in the provisions of this Law are divided into 2 (two) groups, namely groups of violations and criminal groups. The determination of violation groups and crime groups is regulated in article 316, which states, namely:

- (1) "The provisions referred to in Article 275, Article 275 paragraph (1), Article 276, Article 278, Article 279, Article 280, Article 281, Article 282, Article 283, Article 284, Article 285, Article 286, Article 287, Article 288, Article 289, Article 290, Article 291, Article 292, Article 293, Article 294, Article 295, Article 296, Article 297, Article 298, Article 299, Article 300, Article 301, Article 302, Article 302, Article 303, Article 304, Article 305, Article 306, Article 307, Article 308, Article 309 and Article 313 are violations".
- (2) "The provisions referred to in Article 273, Article 275 paragraph (2), Article 277, Article 310, Article 311 and Article 312 are crimes."

In dividing the two groups of criminal acts above, it is clear that the political law on the establishment of Law Number 22 of 2009 concerning Road Traffic and Transportation, is to impose financial penalties and criminal penalties for everyone who interferes with KAMTIBCARLANTAS (Security, Orderly and Traffic Smoothness); it is intended that every person who uses the road, get legal protection and certainty by the state.

In writing this research, the author will discuss criminal law policies on road traffic accidents. The discussion in this study was carried out with a theoretical and empirical approach. Further discussion is described in the following chapter.

2. Research Method

Research is a way of developing science and technology.

Research aims to reveal the truth systematically, methodologically and consistently through the research process. In this research method, normative legal research is used, or also called library legal research, which is legal research conducted by

examining primary legal materials and secondary data or library materials. In this study, the approaches used by researchers to address the issue of legal issues is Law Approach. The approach to the law is to examine all laws and regulations relating to the legal issues being examined. With this approach, consistency and compatibility between one Law and other Laws or the Laws with the Basic Law or between regulations and laws will be known so that the benefits in providing legal certainty and justice will be known.

To be able to answer the issue of legal issues, researchers need research sources in the form of primary and secondary legal materials. Primary legal material is legal material consisting of legislation, official records or minutes in the making of laws, and judges' decisions. Secondary legal materials are all legal publications which are official documents such as textbooks, legal dictionaries, legal journals and comments on court decisions, which are still related to research material. The legal materials that have been obtained are then administered, compiled, recorded, edited, studied, and extracted, then the materials are examined in accordance with the problem set. Primary and secondary legal materials that have been collected, then analyzed and examined, the results of the analysis and study of primary and secondary legal materials become a clue as an answer to the legal problems of this study.

3. Results and Discussion

3.1. Road Traffict Accident Crimes

The development of automotive technology that creates modern transportation, on the one hand increases the standard of living of people in mobility, but on the other hand, the frequency of the number of risk of accidents in the use of motorized vehicle transportation has resulted in the number of human lives that are very numerous each year.

The number of traffic accident casualties recorded by the National Police Traffic Corps from 2013 to 2015 is relatively large, with an average of 160,000 fatalities per year. In 2017, PT Jasa Raharja (Persero) recorded 121,805 casualties due to traffic accidents. This number is dominated by productive age, which means that many workers have become casualties, which results in other social problems, namely: poverty, displaced children, increasing disability population (disability due to accidents), school dropouts, theft and others. According to Kun Wahyu Wardana (2009), the impact of road traffic accidents on casualties stated, "That the casualties of road traffic accidents who died in 2006 were 36,000 casualties, which affected 62.5% of the families they lived in being poor, besides that the social and psychological impacts must have been far more serious, when the fate of a wife

became a widow or children who have been orphaned by the death of their parents".

Hikmanto Juwana (2016), stated, the impact of the impact of road traffic accidents has a social impact, namely: "In the context of traffic accidents, socio-economic risks which are unavoidable. From a traffic accident, a person can lose his physical ability to do his daily work, so the family left will lose the backbone of the family".

There are factors causing the occurrence of road traffic accidents resulting in the fall of fatalities on the highway caused by various factors. The factors causing these are:

Individual Awareness Factor, this factor determines the risk of accidents, the higher awareness in traffic, the number of traffic accidents will decrease.

Infrastructure Factors, this factor is the cause of accidents, namely if many roads are damaged and potholes, it can result in accidents and casualties.

Negligence Factors of Apparatus or Officers, if the officer assigned to regulate the traffic flow is negligent, resulting in an accident. An example is a train door guard who is negligent in closing a train door when a train is passing which results in an accident

Vehicle Maintenance Factors, vehicles that are not cared for properly have the potential to cause accidents, this occurs because vehicle components that are not suitable for use are still forced to use, so they do not function properly which results in accidents (Wardana, 2009).

In an effort to prevent road traffic accidents resulting in casualties, the factors that cause accidents must be prevented and anticipated in order to protect other road users to create KAMTIBCARLANTAS on the highway, then the enactment of Law Number 22 of 2009 concerning Traffic and Transportation Roads, forcing everyone not to be the cause of road traffic accidents by avoiding and eliminating the factors causing the accidents above. Coercion to road users so as not to be the cause of road traffic accidents is effectively done by giving criminal sanctions to everyone who is the perpetrators of road traffic accidents resulting in casualties or material losses. Criminal provisions in accordance with Law Number 22 of 2009 for perpetrators causing road traffic accidents resulting in losses for other parties are contained in the following articles:

a. Article 230:

"The Traffic Accident Case as referred to in article 229 paragraph (2), paragraph (3) and paragraph (4) is processed by a criminal

justice program in accordance with the provisions of the legislation."

- b. Article 310:
- (1) "Every person who drives a Motorized Vehicle due to their negligence resulting in a Traffic Accident with damage to the Vehicle and / or goods as referred to in Article 229 paragraph (2), sentenced to a maximum imprisonment of 6 (six) months and / or a maximum fine of Rp 1,000.000.00 (one million rupiah)."
- (2) "Every person who drives a Motorized Vehicle due to their negligence results in a Traffic Accident with casualties of minor injuries and damage to the Vehicle and / or goods as referred to in Article 229 paragraph (3), sentenced to a maximum imprisonment of 1 (one) year and / or a fine a maximum of Rp. 2,000,000.00 "(two million rupiah)."
- (3) "Every person who drives a Motorized Vehicle due to his negligence resulting in a Traffic Accident with a heavy injury casualties as referred to in Article 229 paragraph (4), sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 10,000,000, 00 (ten million rupiah)."
- (4) "In the case of an accident as referred to in paragraph (3) which results in the death of another person, sentenced to a maximum imprisonment of 6 (six) years and / or a maximum fine of Rp 12,000,000.00 (twelve million rupiah)."

The imposition of criminal penalties for perpetrators who cause road traffic accidents as regulated in article 310 paragraph (1), paragraph (2), paragraph (3) and paragraph (4), is a criminal act (see article 316 paragraph 2). This means that the handling and prevention of road traffic accidents must be a priority to reduce the number and provide a law for the perpetrators.

Other technical arrangements for road traffic violations with criminal law are regulated technically in the Regulation of the Head of the Indonesian National Police Number: 15 of 2013 concerning Procedures for Handling Traffic Accidents, in article 38 states: "The procedure for investigating traffic accidents is carried out in accordance with the Criminal Procedure Act and the provisions of the legislation".

The nature of the above criminal sanctions is to provide protection to other citizens in traffic so that secure, safe, orderly, smooth and integrated road traffic is integrated with other modes of transportation to encourage the national economy, promote public welfare, strengthen the unity and integrity of the nation and able to uphold the nation's dignity as well as the realization of cultured traffic ethics with the goal of manifesting law enforcement and legal certainty for the people.

3.2. Criminal Law Policy in Road Traffict Accidents

Before discussing the criminal law policy in road traffic accidents, it is necessary to discuss the function of criminal law and criminal purposes. The function of criminal law according to Sudarto as quoted from Eddy O.S. Hiariej (2016), stated that the criminal law function is divided into two namely general functions and special functions. The general function of criminal law is the same as the function of law in general, namely to regulate social life or conduct order to the people, while the special function of criminal law is to protect the legal interest against acts that want to rape them with sanctions in the form of crime.

Criminal objectives are broadly divided into three, namely absolute theory, relative theory and joint theory. Each of these theories is:

- Absolute Theory, according to this theory retaliation is the legitimacy of punishment. The state has the right to impose a criminal offense because criminals have committed attacks and rapes on protected legal rights and interests. This theory is also called the theory of retaliation.
- The Relative Theory, according to this theory, punishment is for the enforcement of public order and the criminal goal is to prevent crime.
- Combined theory, according to Vos, this theory aside from focusing on retaliation, the purpose of the nature of retaliation is needed to protect law order. Vos has given equal weight between retaliation and people protection (Hieariej, 2016).

Crime mitigation is not only in the aspect of criminal provision as absolute theory, relative theory and joint theory, but efforts and policies to make good criminal law regulations are essentially inseparable from the purpose of crime prevention, this is called a penal policy or criminal law policy. According to Muladi and Barda Nawawi Arief (2010) law enforcement is an embodiment of a criminal sanction as a process of embodying policy. The policy in this case is a criminal law policy consisting of three stages to produce a rational form of law enforcement, namely:

- 1. Stages of determining the penalty by the legislator;
- 2. The sentence decision stage, by the court; and
- The execution stage of the sentence by the first execution apparatus.

The handling of road traffic accidents if referring to criminal law policy theory, must be started from the first stage, namely the stipulation in the making of laws, this is interpreted at the time of making the Law on Road Traffic, must contain sociopolitical, and sociocultural values; which underlies and gives content to the normative and substantive content of the idealized criminal law, so that the "spirit" of the law really provides a sense of justice in accordance with the culture of its users, which in turn the implementation of this law becomes effective and the people will be orderly traffic on the highway. At this stage the legislator, namely the House of Representatives (DPR) and the President must be well aware that the law has a position as a rule of the game for the people to consolidate their political and legal position, to regulate life together in order to realize the goals in the form of the state. The law can also be said as a collection of principles governing government power, people's rights, and the relationship between the two. For this reason, the seriousness of the House of Representatives and the Government / President in the formation of laws starting from the preparatory stage, the discussion up to the ratification that is believed to be only in the interests of the people, not for personal or group interests, so that after being implemented it can be effective and able to create order and prevent violations and law enforcement.

In the second stage, namely the granting or imprisonment by the court, then at this stage every road user who causes a road traffic accident resulting in fatalities and material losses must be subject to criminal penalties, in order to obtain legal certainty and legal protection for the casualties. According to Zainal Arifin Hoesein (2016), The judiciary as an independent and authoritative state power is idealized to be able to carry out its functions. These functions include:

- As a pressure valve, which means the authority granted by the constitution and laws through the judicial bodies to suppress any action that is contrary to the law, by giving punishment to anyone and any party who commits an unconstitutional violation, namely a violation which is contrary to public order and that violates propriety (violation with the reasonableness).
- As ultimum remedium, which means as the last place in seeking and upholding truth and justice.
- As the guardian of people's independence (the guardian of citizens' constitutional rights and human rights), which means that judicial institutions must be able to prioritize the constitutional rights of citizens and human rights.

- 4. As the trustee of the people (judiciary are regarded), meaning that the power of the judiciary is a place of protection and restoration of the original situation for the people who feel violated or disadvantaged by the interests of individuals, groups, and even by the authorities...
- Court decisions are like the decisions of God (Judicium Die), this happens as a consequence of the free and independent principles given by the constitution and laws to the judiciary.

Implementation of the functions of judges in court decisions in handling road traffic accident cases which the author can convey below is in the form of road traffic accident cases from Tangerang City District Court, where the judge's role in deciding his case considers and promotes justice for the perpetrators and casualties, as follows:

Table 1. The Judge's Decision of Road Traffic Accident Cases From Tangerang City District Court

NO	DECISION	DEFENDANT'S NAME	CHRONOLOGY OF ACCIDENT	NUMBER OF CASUALTIES	JUDGE'S DECISION
01	1260 / Pid.Sus / 2015 / PN Tng 25 August 2015	Irman Ariz bin Suprapto	Defendant is a car driver who crashed into 2 (two) motorcycle riders so that they were injured	3 (three) people were injured and treated in the hospital.	Criminal imprisonment for 1 (one) year and a fine of Rp. 1,000,000, - a subsidiary of 1 month in prison
02	590 / Pid.Sus / 2016 / PN.TNG 22 June 2016	Sugandi Bin Armawi	Defendant is a motorcycle driver in the opposite direction and then crashed into another motorcycle resulting in serious injuries	1 (one) seriously injured person	Criminal imprisonment for 1 (one) year
03	336 / Pid.Sus / 2018 / PN.Tng 19April 2018	Gugun Gunardi bin Gaston Kusnadi	Defendant driving a car which resulted in a traffic accident, which resulted in another person died	1 (one) person died	Criminal imprisonment for 1 (one) year 6 months and a fine of Rp.5 million, a subsidiary of 3 months in prison

Considering the judge's decision above, we must assume that the decision is something that is fair and impartial, this is in line with what is stated in Article 24 of the 1945 Constitution which states; "Judicial power is exercised by a Supreme Court and the Judiciary according to the law". Whereas the explanation of the 1945 Constitution concerning judicial power provides an affirmation, "Judicial Power is an independent power, meaning that it is independent of the influence of Government authority". In this regard, the law must guarantee the position of Judges".

According to Zainal Arifin Hoesein (2016), judicial power is one of the state's powers in the field of law and justice based on Pancasila which is free / independent from interference from parties of extra judicial. Next is the third stage, which is the stage of criminal execution by the first execution apparatus. At this stage the execution apparatus in accordance with Article 270 of the Criminal Procedure Code stipulates that the implementation of court decisions that have legal force will still be carried out by the Prosecutor. For this reason, the court clerk sends a copy of the decision letter to the Prosecutor. In line with the provisions of the Criminal Procedure Code, it is also explained that in Article 36 of Law No. 4 of 2004 concerning Judicial Power, that the

implementation of court decisions in criminal cases is carried out by Prosecutors.

In the context of court decisions in road traffic accident cases in accordance with Law Number 22 Year 2009 in article 310 paragraph (1), paragraph (2), paragraph (3) and paragraph (4), the maximum sentence of imprisonment is 6 (six)) year. Procedure for carrying out court decisions regarding imprisonment or confinement, the Prosecutor receives a copy of the court's decision from the relevant district court clerk within 1 (one) week for ordinary cases and 14 (fourteen) days for cases with a short event, then the Chief Prosecutor issues a letter order to execute the court's decision, then hand the convicted person to the Penitentiary to be imprisoned.

According to Iqrak Sulihin (2016), the aim of imprisonment is not limited to efforts to imprison perpetrators and frighten the public. According to utilitarianism, the aim of imprisonment is as a form of punishment for crimes that lead to rehabilitation or reform efforts. The theory of utilitranism sees imprisonment as a form of punishment that gives good consequences because when undergoing a crime, lawbreakers are kept away from the people, so they are no longer able to commit violations further. According

to Zimring and Hawkins, as quoted from Iqrak (2016), preventing crime through imprisonment is done by limiting the certainty of individuals in expressing their preferences. This basic aim also influences the principles of imprisonment in many countries. Imprisonment only deprives individuals of their freedom of movement, and imprisonment should not make conditions for prisoners worse than before being convicted.

Based on the above matters, the criminal law policy in the field of road traffic accidents is very strategic in repeating the emergence of road traffic accidents, as well as the fall of futile victims on the highway. The number of death tolls every year is around 30,000, which must be stopped not only through repressive measures, but criminal law policy has great importance. Therefore, it can be said that criminal law policy has an ultimate goal and its main goal is protection for the people, to achieve people's welfare. According to Sudarto as quoted in Barda Nawawi Arief, said that if criminal law is to be involved in overcoming negative aspects of the development to the people / modernization (including crime), then it should be seen in the overall relationship of criminal law policy and this must be an integral part of national development plan.

4. Conclusions

The results of writing conducted by the authors in this study, several conclusions that can be submitted are:

- The issuance of Law Number 22 Year 2009
 concerning Traffic and Road Transportation is aimed
 at realizing traffic services and secure, safe, orderly,
 smooth transportation services, so as to create a
 cultured traffic ethic as well as law enforcement and
 legal certainty for the people.
- Law Number 22 Year 2009 Concerning Road Traffic
 and Transport is a product of criminal law policy,
 which aims to prevent criminal violations, law
 enforcement, tackling criminal acts and protecting
 people to achieve social welfare.
- Criminal law policy has three stages to produce rational forms of law enforcement, namely:
- a. Stages of determining the penalty by the legislator;
- b. The sentence decision stage, by the court; and;
- c. The execution stage of the sentence by the first execution apparatus.
- d. That criminal law policy has an ultimate goal, and its main goal is protection for the people to achieve people's welfare.

5. Suggestions

The results of the writing of this study, the authors provide suggestions as input for relevant parties, namely:

- Countermeasures, enforcement, and prevention of criminal acts that harm others and the state, are not always determined from the deterrence effect with the threat of punishment and imprisonment, but are determined by how criminal law policies are applied so that they can become rational law enforcement tools.
- The stages of criminal law policy according to Muladi and Barda Nawawi Arief can be used as a reference by the Government in preparing for the birth of a law with the ultimate goal being law enforcement, legal prevention and legal action.
- Criminal law policy becomes more effective in creating public order and protecting the people.
- 4. Future arrangements are needed for people who cause road traffic accidents that have been found guilty by the Court, with the imposition of criminal penalties in the form of providing financial losses to the victim in the amount of cost of living for the victim's family for one year, the amount of which is determined by the Court.

References

- 1. Arief, B.N. (2002). Kebijakan Hukum Pidana. Bandung, PT. Citra Aditya Bakti.
- Hiariej, E.O.S. (2016). Principles of Criminal Law. Yogyakarta: Cahaya Atma Pustaka.
- 3. Hoesein, Z.A. (2016), Judicial Power in Indonesia, First Matter. Malang, Setara Press.
- Juwana, H. (2016). Accident Social Security as a Form of State Presence. Jakarta, Spora Consultant.
- Muladi and Barda Nawawi Arief. (2010), Criminal Theories and Policies. Bandung, PT Alumni.
- Suhariyono. (2012), Renewal of Fine Penalty in Indonesia, Jakarta: Papas Sinar Sinanti.
- Sulihin, I. (2016). Punitive Penological Discontinuity,
 A Genealogical Analysis of Imprisonment. Jakarta,
 Kencana.
- 8. Wardana, K.K.W. (2009). Insurance Law, Bandung, Mandar Maju.

Laws/Regulations

- 9. The 1945 Constitution of the Republic of Indonesia.
- Law of the Republic of Indonesia Number 22 of 2009,
 Regarding Traffic and Road Transportation, Publisher:
 Ditlantas Babinkam POLRI.
- Regulation of the Head of the Indonesian National Police Number 15 of 2013 concerning Procedures for Handling Traffic Accidents.

PRIZREN SOCIAL SCIENCE JOURNAL

URGENCY OF THE PUBLIC SERVICES SUPERVISION ON THE REGIONAL GOVERNMENT IMPLEMENTATION



Ida Ayu KETUT KARYANI, PhD. C. 10 1*
I Wayan PARSA, PhD. C. 10 2

- 1 University of Udayana, Faculty of Law, Doctoral Program of Legal Studies, karyani.fhud@yahoo.com, *Correspondent Author
- 2 University of Udayana, Faculty of Law, Doctoral Program of Legal Studies, wayanparsa.fhud@yahoo.com

Article history:

Accepted 05 August 2020 Available online 31 August 2020

Keywords:

Supervision,

Public Service,

Regional Government.

Abstract

This study examined the supervision of public services as stipulated in Law 25 of 2009, namely regarding public services and Law 23 of 2014 concerning regional government. Supervision carried out in the law is to give authority to each of the existing institutions or institutions, causing overlapping existing authority. Giving authority to officials will give birth to the rights and obligations to achieve the goals and intentions specified in the legislation. The rise of corruption cases occurs because of the weakness of existing supervision of government administration, especially in public services. In this case corruption will foster public distrust of public services. The form of maladministration carried out by public service providers is always associated with behavior in services performed by public officials and the norms of behavior of officials in public services. In addition, these problems are also caused by the opportunities and authority given to be abused and the low quality of public services in various service sectors. Supervision of public services can provide certainty about the public services provided by the government whether it has been running according to targets and objectives and is a way to find out as early as possible maladministration that might occur so that effective and accountable government can be realized.

1. Introduction

The state has an obligation to serve every citizen to fulfill their basic rights and needs within the framework of public services which is mandated by the 1945 Constitution of the Republic of Indonesia. Building public trust in public services by public service providers is an activity that must be carried out in line with expectations and demands of all citizens and residents related to improving public services.

Public service as stipulated in Law Number 25 Year 2009 Article 1 states that what is meant by public service is an activity or series of activities in the framework of fulfilling service needs in accordance with statutory regulations for every citizen and resident of goods, services, and / or administrative services organized by public service providers.

Philosophically, public service is the fulfillment of the basic rights of the community as the recipient of the service and the apparatus as a public servant. The nature of public service is the provision of excellent service to the community which is an embodiment of the obligation of the government apparatus as a public servant (Suryadi, 2012).

There are 3 (three) main tasks of the government bureaucracy, namely (Lumintang, 2013): public service, empowerment, and development. Public service, is providing routine public services to the public such as providing services. Empowerment, is empowering the community to achieve progress in a better life, such as providing guidance, assistance, consultation. Development, is to carry out development in the community, one of which is by building transportation infrastructure.

Public services in this case include the implementation of public good and public regulation. Public good relates to the provision of infrastructure, goods and services which includes core public services which are the main tasks and functions of the central government or regional governments. Public regulation related to the formation of laws and policies in the framework of creating peace and order (Hardiyansyah, 2015).

Public services are still faced with conditions that are not in accordance with the expectations and demands of the community. The difference in services provided in public services can foster distrust of the community. The community has the right to receive equal and fair services. However, in reality the government has not been able to fulfill it optimally, which can be seen from the absence of services requested but somehow it would still be served, the community is made as an object, and there are no clear benchmarks regarding the provision of good services.

The existence of complicated procedures, slow service, and corruption in various forms can lead to distrust of the public in public services. In addition, the rise of corrupt practices will have an impact on public services provided, which is supported by the opportunities and authority given to be abused and the low quality of public services in various service sectors.

In connection with the occurrence of maladministration, it is necessary to supervise the actions of the apparatus in order to avoid the occurrence of acts that are detrimental to the community, at least to minimize the occurrence of such acts as minimum as possible. Problems faced specifically related to public services, according to Kwik Kian Gie, (2003) are among others due to the high abuse of authority in the form of KKN (corruption, collusion, nepotism), inefficient government organizations at the central and regional levels, poor quality of public services and weak functioning of supervisory institutions. Weak supervision means that the more possible the implementation of work that is not optimal, so that the objectives to be achieved will be increasingly difficult to realize and more opportunities for abuse of power. And vice versa, with the stronger control or tight supervision, the more optimal the implementation of work so that goals can be achieved and abuse of power can be avoided which ultimately people's rights can be realized.

The optimization of the implementation of regional government supervision has not been carried out as it should because of various factors, including the availability of human resources, the budget factor and the commitment factor (political will) of the Governor, regents / mayors as direct superiors who are responsible for the implementation of regional government supervision.

Supervision of the implementation of public services is regulated in Law of the Republic of Indonesia Number 25 of 2009, namely regarding Public Services in Article 35, which determines that:

- (1) Supervision of public services implementation is carried out by internal and external supervisors
- (2) Internal supervision of the public services administration is carried out through:
- Supervision by the direct supervisor in accordance with statutory regulations; and
- Supervision by functional supervisors in accordance with statutory regulations
- (3) External supervision of the public services administration is carried out through:
- Supervision by the public in the form of reports or complaints from the public related to the public services administration;
- Supervision by the ombudsman in accordance with statutory regulations; and
- Supervision by the House of Representatives,
 Provincial Regional House of Representatives,
 Regency / City Regional House of Representatives.

Several provisions in the Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government regulate Supervision. Article 35 paragraph (3) and (4) regulates the participation of the community which in this case is the participation in the administration of public services and participation in the form of supervision. Likewise, the Inspectorate as one of the Regional Apparatuses has the task of assisting regional heads in fostering and overseeing the implementation of government affairs which are under regional authority. Further, the inspectorate is regulated in Article 216. The Supervision of the Implementation of Provincial Regional Government is contained in Article 377 which formulates that:

- (1) The Minister carries out general supervision of the Provincial Governments administration;
- (2) Technical Ministers and heads of non-ministerial government agencies carry out technical supervision of the implementation of provincial regional governments in accordance with their respective fields of duty and coordinate with the Minister;
- (3) Supervision as referred to in paragraph (1) and paragraph (2) shall be carried out by the Government Internal Supervisory Apparatus in accordance with its function and authority.

The existence of several laws and other regulations that provide the same authority in supervision, bring negative consequences in the form of overlapping authority in supervision which can further hamper the Government in realizing public services in accordance with statutory provisions. To realize a clean regional government, good, efficient, effective, and responsible, it is necessary to conduct professional, accountable and independent supervision. Based on the background of the problem as described above, the legal issue raised in this study is as follows What is the Urgency of the Public Services Supervision in the Regional Government Implementation?

2. Research Methds

In connection with this legal research, the type of research used was normative research. In this case, legal research method is: Normative legal research methods that examine law viewed from an internal perspective with the object of research is the legal norm (Diantha, 2017).

According to Morris L. Cohen and Kent C. Olson (2000), they state that: "Legal research is the process of finding the law that governs an activity and materials that explain or analyze that law". In this study, the most basic approach method used was: The legislative approach, which is an approach that is carried out by examining all laws and regulations relating to the legal issues to be examined. This approach was used to analyze the legal norms in legislation relating to this research topic.

3. Results and Discussion

Improving public services in an effort to reinforce the rights and obligations of every citizen and the realization of state responsibilities in the delivery of public services requires legal norms that provide clear regulation. This is an effort to improve the quality and guarantee the provision of public services in accordance with the general principles of government and to provide protection for every citizen from abuse of authority in the administration of public services.

Related to authority in the administration of state and government, there is legitimacy within it, namely the authority granted by law. Therefore the substance of the principle of legality is an authority (Ridwan, 2006), "Het vermogen tot her verrichten van bepaalde rechtshandelingen", namely the ability to take certain legal actions. Furthermore, the authority of supervision will be discussed as stipulated in the legislation.

3.1. Supervision Authority in Laws and Regulations

In the provisions of the Constitution of the Republic of Indonesia in Article 18 paragraph (2) and paragraph (5), it confirms that the Regional Government has the authority to regulate and manage its own Government affairs according to the principle of autonomy and duty of assistance and is given the widest possible autonomy. The granting of the widest possible autonomy to the regions is directed to accelerate the realization of people's welfare through improved services, empowerment and community participation.

In essence, regional autonomy is given to the people as a legal community unit that is given the authority to regulate and manage their own government affairs given by the central government to the regions. Autonomy is implemented by the regional head and the DPRD (Local People's Representative Council) with the help of regional authorities. The authority possessed by the state as the holder of people's sovereignty, one of which is to conduct surveillance, which as a whole aims for the prosperity of the people.

Supervision of the implementation of local government is a process of activities aimed at ensuring that local governments can run in accordance with the plans and provisions of applicable laws and regulations. Supervision of the implementation of regional government is carried out by the Government which includes: Supervision of the implementation of government affairs in the region.

In terms of authority, it can be seen from the type of authority delegated to the regional government in the decentralized system. The authority of the delegation means that the regional government accepts the duties and functions of the functions delegated to the region.

The implementation of provincial and district / city regional government consists of the head of the region and the DPRD assisted by the regional apparatus. In carrying out the development and supervision of the administration of government affairs which are the authority of the regency / city area and the task of assistance by the regency / city area, the president is assisted by the governor as the representative of the central government. This is confirmed in the provisions of Article 91 of Law Number 23 Year 2014.

It is the same as the provision in Article 96 which confirms that the Provincial DPRD has a supervisory function. The supervisory function in question is the supervision of the implementation of provincial and governor regulations, the implementation of other laws and regulations related to the administration of the provincial government, and the implementation of the follow-up to the results of audits of financial statements by the Audit Board of the Republic of Indonesia.

The provincial apparatus consists of the regional secretariat, the DPRD secretariat, the inspectorate, the service and the agency. Regional Inspectorate has the duty to assist regional heads in fostering and overseeing the implementation of government affairs which are the authority of the regions and the task of assistance by regional apparatus.

The supervision of the Regional Government implementation is intended to ensure the implementation of the Regional Government runs effectively and efficiently in accordance with the provisions of the legislation, which includes general supervision, technical supervision and supervision of the Regional Head of the Regional Apparatus and Other Supervision Activities.

3.2. The Forms of Supervision on Public Services

Supervision of the government is an effort to prevent mistakes either intentionally or unintentionally as a preventive effort, or also to correct them if a mistake has occurred as a repressive effort. There are several forms of supervision in the government administration. The form of supervision on public services will be reviewed in the next section.

The forms of supervision on public services as stated in the Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services in Article 35 mentioned that:

- Supervision of public services implementation is carried out by internal supervisors and external supervisors.
- (2) Internal supervision of the administration of public services is carried out through:
 - Supervision by the direct supervisor in accordance with statutory regulations; and
 - Supervision by functional supervisors in accordance with statutory regulations
- (3) External supervision of the administration of public services is carried out through:
- Supervision by the public in the form of reports or complaints from the public related to the public services administration;
- Supervision by the ombudsman in accordance with statutory regulations; and
- c. Supervision by the House of Representatives, the Provincial Regional House of Representatives, the Regency / City Regional House of Representatives.

Internal supervision is supervision carried out by officials in the organization / government itself. Internal supervision conducted by the government is to develop a monitoring system as an

integral part of the institutional work procedures. The responsibility for the operation or not of this internal control system rests with every supervisor, which is then known as direct supervisor supervision or inherent supervision. This embedded supervision is intended to control every activity of the apparatus so that it can be maintained in accordance with the plans, provisions, and applicable laws (Sujanto, 1996).

Meanwhile, external supervision is supervision carried out by supervisory institutions that are outside the government bureaucracy / organization. External supervision of the administration of public services is carried out by the public. Community supervision is supervision carried out by the public in the form of evaluations carried out by representative institutions, non-governmental organizations, non-governmental organizations, as well as complaints and giving information both directly and through the mass media or public opinion regarding services to the community and government administration.

4. Conclusions

Supervision on the Public Services is very important to ensure that public services provided by the government are running well and meet service standards. Even in this case supervision must also be strengthened in the implementation of regional government. Supervision plays a role in ensuring that public services are running as targeted in accordance with the vision and mission and desired goals. This is done in order to prevent maladministration as early as possible. Through the existence of task arrangements and clear authority, it will create effective and accountable local government. Thus, justice, certainty and benefits for the community in achieving national goals can be realized.

References

- Cohen, Kent C. Olson, Morris L. (2000). Legal Research, United States Of America, West Publishing Co., ST. Paul. Minn.
- Diantha, P. (2017). Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum. Jakarta, Prenada Media Group.
- Hardiyansyah. (2015). Komunikasi Pelayanan Publik Konsep dan Aplikasi. Yogyakarta, Gava Media.
- 4. Kwik, K.G. (2003). Reformasi Birolrasi Dalam Mengefektifkan Kinerja Pegawai Pemerintahan. Jakarta.
- 5. Lumintang, D. (2013). Rekonstruksi Regulasi Pelayanan Kependudukan dan Pencatatan Sipil Oleh Birokrasi Pemerintahan Dalam Implementasi Undang-Undang No.32 Tahun 2004 Tentang Pemerintahan Daerah, Vol.I/No.2 April-Juni /2013.

- 6. Sujamto. (1996). Aspek-aspek Pengawasan Di Indonesia. Jakarta, Sinar Grafika.
- 7. Suryadi. (2012). Pengembangan Kinerja Pelayanan Publik. Bandung, PT. Refika Aditama.

Laws and Regulations

- 8. Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services (State Gazette of the Republic of Indonesia Number 112 of 2009 Supplement to the State Gazette of the Republic of Indonesia Number 5038);
- 9. Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 224, Supplement to the State Gazette of the Republic of Indonesia Number 5587).

SOME CRIMINOGENIC FACTORS AFFECTING THE APPEARANCE OF CORRUPTION IN KOSOVO



SCAN ME

MSc. Agnesa BEKA 🗈

European College "Juridica", Department of Law, agnesa.beka@yahoo.com

Article history:

Accepted 10 July 2020 Available online 31 August 2020

Keuwords:

Corruption,

Economic Crises,

Transition,

Unemployment,

Poverty,

War,

Migration.

Abstract

Corruption as a phenomenon, not only destroys the economic base of a country, but it violates the basis of its legal system, legislation, judiciary, public-private institutions, cultural and health institutions, social policies of society and others. In order to know and study the phenomenon of corruption, we must definitely stop at some criminogenic factors which have a significant impact on the appearance of the occurrence of corruption. Thus, corruption as a criminal occurrence is present throughout the history of the state and human society and as such has always been considered as an immoral and harmful social occurrence. Corruption is especially expressed in times of crisis of certain societies, but also along with the strengthening of the state, the development of business activities, the interference of the state in the economy and the bureaucratization of society it has found its housing of presence as a criminal occurrence. Today, the occurrence of corruption has become one of the obvious problems in most countries almost all over the globe. Factors that have influenced the appearance of this occurrence are numerous, such as: the transition of society, economic crises, unemployment, poverty, mass media, the war and the circumstances of the war, the unresolved housing problems, etc. For this, in recent times, corruption has been characterized as one of the most negative social occurrence. Cooperation between relevant state institutions and citizens for this type of criminal activity is extremely important for detecting corruption as a criminal offense.

1. General Overview of Criminogenic Factors

In the science of criminology, we often encounter the use of the notion "criminogenic factor" in the sense of determining the causes that affect the occurrence of crime and that have an etiological significance. Today, all criminologists dealing with the study of the etiology of criminality agree that the appearance of specific forms of criminality is a consequence of the influence of certain criminogenic factors. Factors of objective and subjective nature, which are mutually related to each other, have a great influence on the appearance of corruption. Thus, the studies of such factors have an important role in determining the manifestation and appearance of this occurrence. In this topic, among others, are analyzed some of the criminogenic factors that affect the appearance of corruption in Kosovo.

2. The Impact of Some Criminogenic Factors on Corruption in Kosovo

Criminogenic factors are all those causes, conditions and circumstances that influence the occurrence of crime and various criminal behaviors in a society, i.e., criminogenic factors represent the occurrences and causes that have an impact on crime (Halili, 1995). The appearance of corruption is influenced by many criminogenic factors of a subjective and objective nature, but we will analyze only a few key factors that influence the appearance of corruption in Kosovo, such as:

- a) Difficult housing conditions;
- b) War and the circumstances of war;
- c) Economic crises;
- d) Migration of people;
- e) The transition of society;
- f) Public communication means, etc.

2.1. Difficult Housing Conditions

Difficult housing conditions as criminogenic factors occupy an important place in the empirical research of criminal etiology. The problem of housing and especially the lack of adequate housing choices are related to the process of population migration, its concentration in centers and cities, mass movements from rural areas to urban and industrial areas. Due to large population movements and spontaneous arrival in urban and industrial centers, a situation of lack of residential space is created (Halili, 2016).

From the criminological research of this factor it is noticed that in inadequate flats and rooms are placed some families with many members, so the stay and living in them is very difficult. This situation affects juveniles and young people, often due to difficult housing conditions, to leave the family, to seek other solutions by dealing with various criminal behaviors and actions, including various corruptive actions, especially those in various public procurement processes, where these are part of such a public-state process.

2.2. War and the Circumstances of War

One of the objective factors influencing the emergence of corruption is the war and the circumstances of the war. Thus, the impact of war circumstances on various criminal manifestations can be viewed in three phases of combat activities. There is talk of the influence of circumstances in the phase of war preparation, in the phase of war development and in the post-war phase (Halili,1995). In the researched period of corruption 2012-2017, Kosovo experienced the two phases mentioned above (before the war and after the war). In the first phase, that of preparing for war, the whole of Kosovo was occupied by the military, police forces and the corrupt Serbian administration, which had forcibly established its power in all segments of life in Kosovo.

Based on the searches made in the records of the Courts of Kosovo, we have not managed to find any case of conviction of a senior official for corruption. This means that the "dark and gray number" of corruption has been extremely high during this period. The war in Kosovo has presented one of the most serious catastrophes for the attacked Albanian population. In Kosovo, during the war period (1998-1999) over 100,000 residential and commercial buildings were destroyed and burned by the Serbian occupying forces, over 13,000 people were killed, old people, women, innocent children, etc.

This period is characterized by uninterrupted war and the circumstances of the war, therefore despite the fact that even in these circumstances there were various criminal acts, including corruption, the current Kosovo institutions do not possess any

evidence of such corrupt affairs of this time period, as the public records of courts and prosecutors' offices were taken away by the Serbian government during its departure from Kosovo (1999) after the entry of Western allied forces into Kosovo.From all this, we can conclude that war and the circumstances of war are criminogenic factors, with great influence on the appearance of corruption.

2.3. Economic Crises

Economic crises are one of the main factors affecting the occurrence of crime in general. Kosovo has also had its ups and downs in the economic field. The most difficult economic period in Kosovo was dominated by the period of suppression of Kosovo's autonomy March 28, 1989 onwards, until 1999.

This was the period of economic survival of the Albanian people in Kosovo, because it was suppressed its autonomy with the constitutional changes of 23.03.1989, made by the violent Serbian government, in order to subjugate the Albanian people especially in the economic and political aspect. This difficult economic situation pushed a large number of citizens, despite the desire, to enter into corrupt relations, the absolute majority due to the imposition of such a corrupt relationship by the existing Serbian government itself.

To prove the influence of Serbian state institutions in the criminalization of economic life in Kosovo, we have not managed to find in the District Courts of Kosovo any weighty evidence of criminological science. This is not a fact that there have been no such cases, but it is a proof which shows that the Serbian government has intentionally avoided the judicial evidence of such cases, given that one of the vital interests of the violent Serbian government in Kosovo was the application of the principle: "Destroy (criminalize) every pore of life, but leave no trace (Beka, 2007)!"

The difficult economic situation in Kosovo continued in the post-war period (after 1999), when Kosovo was in the phase of emergency assistance, and later of reconstruction and development. This stage is also characterized by a high degree of economic crisis, where most factories were out of order, as a result of their destruction and looting by the violent Serbian government installed in Kosovo during the period 1989-1999 (Beka, 2007).

This phase is characterized by the resumption of numerous corruption scandals in Kosovo, especially during the period of assistance and investment from foreign entities that helps the recovery of Kosovo and its development. This period is also characterized by many corrupt affairs that have occurred in

Kosovo, where the perpetrators are also persons in high official state positions, such as: corrupt passport affair, Hotel Grandi affair, numerous corrupt affairs in KEK (Kosovo Electricity Corporation), PTK (Post Telecom of Kosovo), corrupt affairs during the sale of socially owned real estate by KTA - KPA (Kosovo Trust Agency - Privatization Agency of Kosovo), etc.

2.4. Migration of People

The occurrence of migration is a factor which has a great impact on the life psychology of migrated persons. This occurrence is greatly helped by their difficult integration into society and the new environment.

Kosovo is characterized by a high degree of density and population growth. In 1989 it had 1,941,937 inhabitants, with a territorial area of 10,906 km2(KSA, 1988). Therefore, socioeconomic conditions in Kosovo have caused a reduction in the fund of arable land as a result of the construction of numerous buildings, housing, business facilities, etc. This situation has created many problems of social and economic nature, especially there is evident the large workforce, not engaged in economic and social life. Therefore, in Kosovo all statistics show that there is no official evidence regarding the rate of migration of people in the village-city relationship for the period 2012 - 2017. But, giving up life in the countryside and migrating to the city (in the new environment), being positioned in different positions in public institutions - state and private companies, has created enough space for some people from this category to enter into corrupt affairs, especially in the field of public procurement, but also in other public services.

2.5. The Transition of Society

Kosovo in 1999 was liberated from the Serbian occupier. Despite this, the post-war period represents a difficult stage in the political, social, economic field for Kosovo and its people. This was the period when it was thought that Kosovo would advance rapidly in all stages of its development.

In 2008 Kosovo declared its independence. This strengthened the belief that Kosovo is on the right track to overcome the transition period. 20 years after the end of the war, Kosovo is still in various phases of transition, which will last, as a result of the general crisis that exists: economic, social, political, social, moral crisis, etc. that has attacked Kosovar society.

This period is characterized by marked changes in the political system, with major transformations of socially owned property into private ownership (during the privatization process, transformation of socially owned enterprises into public-private

enterprises, etc.), but attacked by the occurrence of corruption during such transformations performed.

The consequences of such actions in Kosovo are still evident today. This and many other abuses have slowed down the transition phase of Kosovar society in all pores of life. From this we can conclude that: Kosovo is going through a difficult transition towards a free market economy. This economic situation is affecting the committing of criminal acts and the breach of security in general (Latifi, 2002).

2.6. Public Communication Means

Citizens often fall victim to the occurrence of corruption through deception and misrepresentation against them through the media: television, radio, various portals, etc. This is a recent feature in the media in Kosovo, for example: on various televisions and internet portals, various physical and legal entities are advertised that have benefited millions of Euros from the processes of "tender mania" (public procurement), which entities at once raise the standard of living, up to enormous levels (luxury cars, expensive wardrobes, build large commercial and collective residential facilities, spend uncontrollably financial means in various manifestations, etc.).

Such (public) actions push citizens to increase the desire for large and rapid acquisition of financial capital, which can be done in principle through misuse and various corruptive processes in such a society, with criminalized elements. That is why the mass media and crime are at the center of discussions of criminologists and sociologists, who acknowledge the existence of a direct connection of some mass media with different interest and crime groups. When we talk about media, we mean not only electronic media - the Internet, but also TV, radio, print media, etc (Hysi, 1984).

In this regard, we would emphasize the necessity of creating and comprehensive support of anti-criminal behaviors and first of all educating the public in order to stay away from crime and to report it. Therefore, in order to realize this education, a special role is played by the mass media - electronic and print media (Hysi, 1984).

3. Conclusions

The occurrence of corruption in Kosovo remains one of its main challenges. Corruption as an occurrence which is suffocating the Kosovar society day by day, poses a permanent threat to the economy and the democratic society in general. Corruption is one of the specific forms of organized crime that endangers the economic, political, legal, cultural and other important values of society. In addition to the development of international economic

relations, corruption takes on new forms of presentation, perfecting and utilizing the various tools and methods used by perpetrators. Corruption, presented in contemporary forms, has not bypassed the economically fragile Kosovo and in the process of new state formation, has slowed down and weakened its development.

The consequences of corruption are dangerous, both economic, political and social. Corruption, in whatever form and in whatever plane it appears, thus severely violates the fundamental values of society and democracy. The occurrence of corruption causes great social, political, economic and security consequences. Corruption severely damages the credibility of a state both domestically and in the international arena.

A challenge in itself is to identify the causes of corruption in order to prevent and combat it as effectively as possible. Judicial, prosecutorial and free media institutions, especially investigative journalism, play an important role in combating this occurrence. All these factors affect the prevention and effective fight against the phenomenon of corruption in Kosovo society.

Kosovar society, state institutions, civil society face a challenge called corruption. This challenge can be overcome to some extent only if the relevant state institutions, assisted by civil society and citizens, manage to seriously investigate the factors that have influenced the appearance of corruption in Kosovo and eliminate these causes to the extent that affect the reduction of this criminal occurrence in Kosovo society.

References

- Beka A., (2007), "Abuses in the field of real estate in Kosovo - Criminological aspect", Prishtina: AAB University.
- 2. Gjinovci A., (2016), "Economic Crime and Ethics in Contemporary Organizations", Prishtina.
- 3. Halili R., (1995), "Criminology with Penology", Prishtina: Law Faculty, University of Prishtina.
- 4. Halili R., (2016), "Criminology", Prishtina: University of Prishtina.
- 5. Horvatić Ž., (1981), "Elementarna kriminologija", Rijeka: Liburnija.
- 6. Hysi V., (2010), "Criminology", Tirana: University of Tirana.
- 7. Latifi V., (2002), "Problems of organized crime in Kosovo, cooperation at national, regional and international level in the fight against organized crime" Magazine "Law", no. 4. p. 30.

- 8. Salihu I., (2012), "Economic Crime National Security Challenges in Albania, Kosovo and Macedonia, in the Face of Economic Crime", Skopje: Print ISB.
- Statistical Yearbook of the former SAC of Kosovo,
 (1988), Prishtina: Statistical Agency of Kosova.

LEGAL RESPONSIBILITY FOR THE OFFENSES COMMITTED THROUGH THE MEDIA IN KOSOVO



MSc. Laura TAHIRI 10 1*

MSc. Milot KRASNIOI 1 2

- 1 South East European University, Faculty of Contemporary Social Sciences, Governance and Public Administration Department, tahiiri.laura@gmail.com, *Correspondent Author
- 2 South East European University, Faculty of Contemporary Social Sciences, Governance and Public Administration Department, milot. krasniqi 1997@gmail.com

Article history:

Accepted 19 July 2020 Available online 31 August 2020

Keywords:

Mass Media, Freedom of Expression, Insult, Legislation, Criminal Liability, Civil Liability, Criminal Offenses, International Conventions.

Abstract

The purpose of this paper is to provide an overview of how the media generally function in relation to their responsibilities to the State. Knowing that despite the legal protection enjoyed by the media under international conventions and in general domestic legislation, all criminal offenses committed through the media are defined in one way or another by adequate legal norms to prevent and sanction such offenses abusive.

During the different periods of Law adoption in Kosovo, it is evident that the area of criminal and civil liability for criminal offenses committed through the media has changed. This is due to the fact that various provisions have not infrequently been used to restrict freedom of expression, which is otherwise the most basic, but also the most sensitive provision provided by Article 10 of the International Covenant on Human Rights. Therefore, in this paper will be explained the variability of the legislation on criminal and civil liability for criminal offenses committed through the media and that starting from International Conventions, the Constitution of the Republic of Kosovo, International Legislation compared to domestic, comparison of provisions which with the old codes have been defined as criminal offenses, while today those offenses are considered of a civil character and for these offenses there is only civil liability.

1. Introduction

Various private and public mass media, Internet, TV, various newspapers, radio, etc. have a special significance in everyday life. Today, human society finds it impossible to function without the Mass Media as a source of information and as a form of communication with public opinion.

It is well known that the means of public communication have a great influence on the creation of public opinion and with special emphasis when such information is related to crime and criminality in general. In order to prevent and fight abuses in the field of information and communication with the public, every genuine society has issued legal provisions, its legislation in the civil and criminal field in order to prevent these special types of abuses.

In everyday life there are many abuses in the field of public information, which in essence exceed the legal competencies for which these public and private mass media were established. Although, it is known that a large number of media outlets are managed, financed and directly or indirectly influenced by various interest groups, be they political, economic, legal, etc.

Various mass media such as internet, social networks, TV, radio, print media, etc. often serve and place in the public opinion information which is not fully verified, lies, information (with certain background of financial gain illegally) that can harm not only certain natural and legal persons, but also a society whole.

It is also known that the media in modern times and in the democratic system represent an important pillar of influence of all currents and processes in society, so they are in fact the fourth pillar of the separation of powers. This is further reinforced by the fact that the media have such great power in orienting public opinion in certain areas of life that they determine the thoughts of people (as viewers, readers and listeners) in the face of events of a political, economic, social, social nature, etc.

The media can also change the mentality of the people in one way or another because by serving classified information they direct the human mind in certain directions and quite efficiently.

When we talk about the general level, it is indisputable that the media today play a relevant and influential role in the lives of people in general, despite the fact that such an impact has negative and abusive effects at certain stages of development of human society.

Technical-technological development in some segments of Mass media, especially those related to the Internet, today have almost become quite dangerous and very difficult to manage. Unfortunately, today critical thinking is done by a very small percentage of people and this is exactly what has created a general opinion about the trust of information disseminated through the Mass media, especially through the internet. Today, the power of the media has reached such a degree of collective influence that it can elevate people's morale, but at the same time can attack it to the point of creating emotional and psychological distress.

Precisely due to the great influence of the Press, Radio, Television, Internet and other means of public information and communication, the need to regulate this area with national legislation has emerged.

The Constitution of the Republic of Kosovo in its Article 40 speaks about freedom of expression where freedom of expression is guaranteed and includes the right to express, disseminate and receive information, opinions and other messages, without being hindered by anyone. However, the same article clearly states that freedom of expression may be restricted by law in cases where it is necessary to prevent incitement to violence and hostility on the grounds of racial, national, ethnic or religious hatred (The Constitution of the Republic of Kosovo, article 40).

Freedom of expression is guaranteed by Article 10 of the European Convention on Human Rights where paragraph 1 states that: Everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of cinematographic or television

broadcasting undertakings (Bychaëska- Siniarska, 2018) Whereas, par.3 make clear the fact that the exercise of these freedoms, which contains obligations and responsibilities, may be subject to those formalities, conditions, restrictions or sanctions provided by law and that are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the protection of law and order and the prevention of crime, for the protection of health or morals, for the protection of the dignity or rights of others, to prevent the spread of confidential data or to guarantee the authority and impartiality of the judiciary. (Bychaëska-Siniarska, 2018).

Also, the Constitution of Kosovo, in article 42 which speaks about the freedom of the media guarantees the freedom and pluralism of the media, censorship is prohibited and no one can prevent the dissemination of information or ideas through the media, unless such a thing it is necessary to prevent inciting and provoking violence and hostility on the basis of racial, national, ethnic or religious hatred. According to this constitution, everyone has the right to correct fake, incomplete, or inaccurate information published, if it violates his/her rights or interests, in accordance with the law.

But unfortunately today the press and other media outlets exceed authorizations for different purposes and most often for certain purposes of daily politics, certain interest groups that have an impact on the political currents in the country and in some media (privately or publicly owned), but also to benefit financially or other forms of interest, by posting untrue, modified information, which is of interest to the public.

In these situations and circumstances, the media use unverified information, fabrications and lies and thus publish or transmit "fabricated" data, half-truths or misinformation, through which they endanger and seriously damage the freedoms, rights and human beings and citizens 5(Dragusha, 2010), but also severely attack the values of a society which is going through a phase of long-term transition, such as Kosovo. These abuses of the mass media definitely have negative effects in relation to the international community - states as subjects of international law, but also with international mass media.

From the prism of criminal law it should be noted that various mass media, such as the Internet, Press, Radio, Television and other means of information and public communication not only affect a large number of people across the globe, but with their misuse can also be committed a large number of criminal offenses and consequently affect the increase of crime in general.

2. Criminal Responsibility of Persons Who Perform Criminal Offenses Through the Media

Today, the technical-technological development and the constantly changing trend of becoming a Journalist and publishing information to the public poses a great complexity in terms of criminal responsibility of persons who commit crimes through the media. Social networks which have conquered the world and at the same time have conquered the mind and control of the thinking of people in general, are a rather difficult form of management and as such adequate mechanisms for their control have not yet been established. Their lack of control and without the opportunity to determine the criminal responsibility of persons who through social networks as a form of information and communication place various information, this information that often represents criminal offenses, is making it even more difficult to establish criminal responsibility of these persons. The criminal offenses committed are of a very high intensity and which are by no means rare.

The system in Kosovo gives sufficient space to the persons responsible for publishing various information and as such the source of information very often leads to the fulfillment of the conditions for a criminal offense committed. The publication of some data including various Court files very often hinders the criminal procedure but not only. This information that is disseminated to the general public also damages the image of many people whose compensation can never be made in proportion to the damage caused. The Criminal Code in force of the Republic of Kosovo in article 66 (Order for publication of Judgments) stipulates that the Court may order the publication of a Judgment when it deems that publication is in the general interest of the injured party or other persons. The order for the publication of the Judgment requires that the Judgment be published, in whole or in part, in a newspaper or broadcast on radio or television. The publication is done at the expense of the convict and the date and duration of the publication are set by the court. The newspaper, radio station or television station publishes the verdict sent to them by the Court. (Code No. 06 / L-074 Criminal of Republic of Kosovo, 2019) Among other things this article in par.5 says that the publication of the Judgment is not ordered if such publication endangers official secrecy, the privacy of persons or the morals of society.

The mass media in a democratic system where freedom of expression is a right guaranteed not only by the Constitution but also by International Conventions, today has a host of protections for the work they do and for the way they access information. Also, thanks to the development of technology and great technological achievements, the issue of making news has been

simplified knowing that we now live in the era of digitalization but not only. Today, social networks are facilitating the benefit of the media and their efficiency because already with information are contributing a lot and "active" citizens using personal phones through which they provide photos, video recordings, conversations, etc. This trend has led to many acts being considered criminal today, but such a thing has not yet been created as awareness by society in general. The non-sanctioning of such persons is increasingly giving strength to this trend and as such should be prevented as soon as possible because otherwise the damage will be great and very long-term in every sphere of life. Photographing and other unauthorized recordings are a criminal offense under the Criminal Code of the Republic of Kosovo in force. Anyone who without authorization photographs, films, videos or otherwise records the other person in his personal residence or in any other place where the person has reasonable expectations for privacy and thus substantially violates the privacy of the other, shall be punished by a fine or with imprisonment of one (1) to three (3) years; Whoever, without authorization, passes, displays or gives access to a third party to the photograph, film, videotape or any other recording obtained in violation of the paragraph of this article, shall be punished by imprisonment of one (1) to three (3) years. (Criminal Code No. 06 / L-074 of the Republic of Kosovo, 2019).

3. Responsibility in the Field of Media According to Some Comparative Legislations

Kosovo has advanced legislation compared to other countries in the region in relation to the protection of journalists' resources. It is one of the few countries that has adopted a law on the protection of journalists' resources. Journalists and other media professionals have it the right to remain silent about their sources of information. According to this law, the declaration of the source of information can be made only at the request of the competent court, and this, only if this information can not be disclosed by other means and that is important for the preservation of someone's life (Law No. 04 / L-137 on the Protection of Journalism Resources, 2013).

Other countries also have regulated the issue of protection of information sources. Montenegro has regulated this issue with the Law on Media and Electronic Media. However, through self-regulatory mechanisms such as the Code of Ethics, journalists in Montenegro have envisioned that sources of information be protected but also that the motives of confidentiality are verified before this source can be considered credible. In fact, the self-regulation of journalists is seen as the best form of regulation of the exercise of the profession of journalism. This is because, in this way, the abuse of the rights of journalists in general and the

protection of the source of information in particular would be prevented.

Protecting journalists' resources has been problematic in other countries as well. Although all countries have determined that journalists' sources of information are protected, there have been cases where this right has been restricted. Croatia, in the Law on Criminal Procedure, has provided the possibility for journalists, in closed session, to indicate the source of information, if this information avoids any other crime. The form of regulation in Croatia is similar to that of Kosovo.

In Serbia, the protection of journalists' sources is done by the Law on Public Information, in its Article 32, which specifies the right of journalists to protect their sources of information. However, Article 41 of the Criminal Code of the Republic of Serbia, which leaves the possibility of keeping the source of information secret, unless it is a criminal offense punishable by at least five years of imprisonment or if it is necessary to prevent an offense such. Such a definition is similar to the restriction set in the Kosovo law on the protection of journalistic sources, except that in this case, the restriction is set in the criminal code. (Ejupi & Abazi 2015: 7).

4. Civil Media Responsibility and Protection of the Source of Information According to the Legislation in Kosovo

Regarding freedom of expression and the media, the Criminal Code of the Republic of Kosovo contains a whole chapter which sets out the provisions on criminal liability for criminal offenses committed through the media. Such a Criminal Code contains 4 articles in total (Articles 37, 38, 39 and 40) regarding the criminal liability of natural and legal persons (3 of which have been repealed by Law No. 04 / L-129 on amending and supplementing Criminal Code of the Republic of Kosovo No. 04 / L-82 (Salihu & Zhitija & Hasani, 2014) Article 37 defined the hierarchy of criminal responsibility for any criminal offense committed through the media (first the author, then the editor-in-chief, then the publisher and finally the producer).

Article 38 was directly related to the Law on the Protection of Journalistic Sources and stated that the media was not criminally liable if they refused to disclose the source of the information - unless the court considered that disclosure of information was necessary to prevent an attack which posed an imminent threat. to the life or bodily integrity of any person. Article 39 meanwhile simply defined the applicability of the general provisions on criminal liability. These articles have been repealed in Kosovo after the great influence that the mass media and civil society have made in relation to the changes required and implemented. As a result, only Article 40 remains in the Criminal Code, which

defines the criminal liability of legal persons. This article expressly stipulates that: It follows that the legal person is responsible for the criminal offense of the responsible person, who has committed a criminal offense acting on behalf of the legal person within his powers, for the purpose of gaining benefit or has caused harm to that legal person. The liability of the legal entity exists even if the actions of the legal entity have been contrary to the business policies or orders of the legal entity (Salihu, Zhitija & Hasani, 2014).

According to the legislation in force in Kosovo, the legal person is also responsible for the criminal offense in cases where the responsible person has committed a criminal offense is not punished for that criminal offense, and the responsibility of the legal person is based on the guilt of the responsible person.

It should be noted as a "sui generis" case the omission of this article and the removal of the other three because there is no consistency in the criminal liability mentioned. The Criminal Code leaves legal entities under criminal responsibility, but on the other hand removes criminal liability from natural entities, from whose responsibility the criminal liability of legal persons actually derives.

However, the Criminal Code of the Republic of Kosovo sufficiently manages to formally define the two issues, both privacy and freedom of expression and media.

5. Compensation of Damage by Civil Media Liability

The damages caused by various information coming precisely from the means of public communication are very great, the compensation or reward can be at least as a modest satisfaction for the attacked subjects. Too much information is so harmful that it morally, psychologically and psychologically affects certain subjects, so much so that they may lose the authority that society enjoys and their personal and family integrity. This abusive information seriously violates fundamental human rights and freedoms, which are guaranteed by national legislation and international conventions.

Knowing that the responsibility for damages caused by criminal offenses committed through the media is already of a civil nature, the regulation of compensation for damages caused is done in accordance with the Law on Compulsory Relations (LMD) and that related to Article 139 (request to ceases to violate the rights of the personality) according to which everyone has the right to request from the court or other competent body to order the cessation of action that violates the integrity of the human personality, personal and family life, and other rights. of his

personality and that the court, respectively the other competent body may order to cease the action under the threat of payment of a certain amount of money, set in total or in certain periods of time in favor of the injured party (Law No. 04 / L-077 On Obligations, 2012).

Also, this law in article 182 (pronouncement of the judgment and correction of the error) clearly states that in case of violation of the right to personality, the court may order the pronouncement of the verdict, respectively the correction at the expense of the injured party, or order the injured party to withdraws the statement by which the violation was committed, or something else by which the purpose achieved by reward can be accomplished. (Law No. 04 / L-077 on Obligations, 2012).

The Law on Obligations also Article 185 provides for monetary compensation in special cases (violation of dignity) which is one of the most common forms of damage by the media and information disseminated by various means of public communication. According to this article, the right to compensation for monetary damage due to the emotional pain suffered belongs to a person who, through fraud, violence or abuse of any relationship of submission or dependence, has been pushed into punishable sexual intercourse or into punishable unnatural sexual act, as well as the person against whom another criminal offense has been committed against the dignity of personality and morals. (Law No. 04 / L-077 on Obligations, 2012).

Whereas, article 183 (monetary reward) for the physical pains suffered, for the spiritual pains suffered due to the reduction of life activity, ugliness, violation of authority, honor, freedoms or rights of personality, the death of a relative, as well as fear, the court, if it finds that the circumstances of the case especially the intensity of pain and fear and their duration justify this, will judge the fair compensation in money, regardless of the compensation of material damage as well as from lack of material damage.

In deciding on the claim for compensation of non-pecuniary damage, as well as the amount of its compensation, the court will take care of the importance of violating the good and the purpose for which this compensation serves, but also for the fact that with not to favor goals that are not in line with its nature and social purpose. (Law No. 04 / L-077 on Obligations, 2012).

With sufficient legal mechanisms and institutions, Kosovo, in legal terms, has created a good climate for practicing the profession of journalism. However, law enforcement and the proper functioning of institutions is essential to ensure a safe climate for journalists. Institutional mechanisms created by state institutions or by self-initiative are not sufficiently functional.

In terms of legal framework, Kosovo stands quite well. It is one of the few countries that has adopted a special law on the protection of journalists' resources and has decriminalized defamation as a legal violation. Institutional mechanisms are in place and journalists enjoy legal remedies for practicing their profession. Defamation is not dealt with in the Criminal Code of the Republic of Kosovo. Most other European countries treat defamation as a criminal offense. In some European countries and countries aspiring to European integration, defamation is punishable by a fine, which in some cases is even more serious through the media. In other countries, prison sentences of defamation or insult are also provided. (Ejupi & Abazi, 2015: 12-15).

The Republic of Kosovo has regulated criminal and civil liability for criminal offenses committed through the media differently in the previous legislation. Initially defining with special provisions such acts committed through the media and then introducing this responsibility in the general provisions of the new criminal code, but in particular we emphasize that this issue of regulation and sanction has remained in the field civil law, specifically the Civil Law against Defamation and Insult (Law No. 02 / L-65 Civil Law against Defamation and Insult, 2008).

The Republic of Kosovo is a supporter of the principle "societas delinquere potest", therefore even in criminal liability for criminal offenses committed through the media it is sanctioned in cases where criminal offenses can be committed that are provided by the Criminal Code but that criminal liability is sanctioned only under the responsibility of legal persons. This is done with the sole purpose of creating a strong legal basis for the prevention and fight against crime in general, and especially when carried out by legal entities, where with special emphasis we distinguish that carried out by the mass media with the status of legal entities. (Law No.02 / L-65 Civil Law against Defamation and Insult, 2008).

6. Conclusions

Various mass media such as the Internet, TV, radio, newspapers, etc. have always been and remain one of the most important forms of creating public opinion in all areas of life. Today it is impossible to think of the functioning of political, economic, social life, etc. without the mass media and information provided by these media.

Daily politics today is oriented precisely by the mass media and the creation of a favorable climate for people who directly or indirectly influence this information, offer them various benefits, not only material.

A convenience of providing and receiving information would not be created if the legislation did not specify specific and general cases for the operation of the mass media. Therefore, over different periods of time, based on the change of human society and human rights in general, the right to freedom of expression has gone hand in hand with this. Freedom of expression today is a fundamental human right which is guaranteed by International Conventions, but also by local-national legislation, including the constitution as the highest legal act.

Of course, freedom of expression is also restricted in certain cases because this is presented as a need in cases where there is an attempt to abuse this right. For this reason, legal mechanisms "lex specialis" have been issued to prevent and combat abuses of this nature. Also, in cases of causing damages in Kosovo now there is only civil liability and compensations are made in accordance with the Law on Obligations.

In conclusion, a very favorable climate has been created in Kosovo for the exercise of the profession of journalism, ie for the functioning of the mass media in general, respecting and protecting in particular freedom of expression as a fundamental human right and thus modifying criminal responsibility in civil liability which as a sanction has only compensation for the damage caused by that offense.

References

- 1. Ejupi, B. & Abazi, D., (2015), Freedom of expression and the practice of journalism in Kosovo, Comparative analysis of the legal framework, Prishtina, INDEP Institute for Development Policy.
- 2. Dragusha, M. (2010), Criminal and civil liability for criminal offenses committed through the media, Prishtina, Revista Advocacy, no.9.
- Kambovski, V. (2009), Legal-Criminal Framework for the Prevention of Organized Crime - Legal Aspects, Tetovo.
- 4. Constitution of the Republic of Kosovo. Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702
- 5. Code No. 06 / L-074 Criminal of the Republic of Kosovo, Prishtina, 2019. Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413
- 6. Law No. 04 / L-137 On the Protection of Journalism Resources, Prishtina, 2013, Prishtina. Available at: http://agk-ks.org/wp-content/uploads/2018/08/LIGJI_NR._04_L-

137_P%C3%8BR_MBROJTJEN_E_BURIMEVE_T%C 3%8B_GAZETARIS%C3%8B.pdf

- 7. Code No. 04 / L-082 Criminal Code of the Republic of Kosovo, Prishtina, 2012, Prishtina. Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413
- 8. Law No. 04 / L-030 On Liability of Legal Entities for Criminal Offenses, Prishtina, 2011, Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=2766
- 9. Law No.02 / L-65 Civil Law against Defamation and Insult, Prishtina, 2008. Available at: https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2503
- 10. Salihu, I. & Zhitija, H. & Hasani, F. (2014), Commentary on the Criminal Code of the Republic of Kosovo, Edition 1, Prishtina.
- 11. Law No. 04 / L-077 On Obligations Relations,
 Assembly of the Republic of Kosovo, Prishtina, 2012.

 Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=2828

THE REFORM OF PUBLIC ADMINISTRATION IN KOSOVO



1

MSc. Milot KRASNIQI 🗓 1*

MSc. Laura TAHIRI 10 2

Azem KOLLONI, PhD. C 10 3

- 1 South East European University, Faculty of Contemporary Social Sciences, Governance and Public Administration Department, millot.krasniqi1997@gmail.com, *Correspondent Author
- 2 South East European University, Faculty of Contemporary Social Sciences, Governance and Public Administration Department, tahiiri.laura@gmail.com
- 3 South East European University, Faculty of Contemporary Social Sciences, Governance and Public Administration Department, azemkolloni@live.com

Article history:

Accepted 21 July 2020 Available online 31 August 2020

Keywords:

Reform,

Public Administration, Electronic Government.

Abstract

The reform of Public Administration in Kosovo is an essential part of the State-Building process. By the administrative reform, the Government aims to modernize the Public Administration, to strengthen its capacities and to make it more efficient and accountable. The post-conflict period in Kosovo from 1999 when the building of the new Public Administration in Kosovo began until the beginning of the administrative reform is a relatively difficult period for Kosovo. The reform of the Public Administration in Kosovo is manifested in two ways: first, in relation to its own development structure and, secondly, in relation to the functions it performs, the effects which are realized and the services provided to Institutions and citizens. The implementation of E-Government in Public Administration in Kosovo enables all efficient categories of Government services, at any time and from any distance, in order to meet daily needs of citizens. E-Government modernizes the administration and enables the creation of an efficient and accountable management at all levels of administration. Through the provision of electronic services to citizens, Kosova will be part of Europe.

1. Introduction

The State is functional and efficient only with a developed, professional and accountable Public Administration. In modern times, when the use of technology, especially information, has become a necessary part of life and work, the changes created have prompted new developments and reforms in many areas, including public administration (Waldo, 1972). Public Administration has become an instrument of central Government to deal with general social problems. The term Public Administration means "the implementation of Government policies (Random House Unabridged Dictionary) and an Academic discipline that studies this implementation and prepares civil servants for work." Some of the various definitions that have been offered regarding the term Public Administration refer to meanings such as: "Management of Public programs", (Robert & Denhardt, 2009)" translation of politics into the reality

that citizens experience every day", (Donald & Fessler, 2009) " the study of Government decision-making, analysis of policies themselves, various inputs that have created them, and the inputs needed to produce alternative policies" (McKinney & Howard, 1998).

The Public Administration is an organizational structure that represents the basis for decision-making and implementation of decisions, rules according to which public services are carried out." Public Administration is one of the main segments through which the relations between the State, Civil Society and the Private sector are realized. In this regard, supporting innovations in Public Administration enables the realization of development objectives, in particular the economic advantages, poverty reduction, harmony and institutional stability (Stavileci, 2005).

2. Intention

Such objectives require the participation of the Company in defining, directing, monitoring and evaluating intergovernmental management and establishing direct consultations, strengthening coordination mechanisms to assess the quality of public management, efficiency and results, and establishing close relationships between Civil Employees, in order to promote a professional civil service through various fields of specialization.

3. General Aspects Related to Development of Public Administration in Kosovo

The Public Administration in Kosovo is relatively new since the post-conflict period beginning in 1999 when the building of a new system and a new social order began, which preceded a new system of Public Administration in Kosovo. Although it is known that its functioning was early, especially after the Second World War, the Public Administration in Kosovo did not maintain the continuity of action after the establishment of the Civil and Military Mission (UNMIK and KFOR). The Resolution of the United Nations (UN) Security Council 1244 also laid the foundations for the functioning of Public Administration in Kosovo. The Resolution designated UNMIK as responsible for the functioning of the Public Administration. By the Resolution, the International Civil Mission was entrusted with tasks and responsibilities in the political and administrative area at three levels: a) the Kosovo Interim Administration; b) the establishment of Institutions of Democratic Self-Government, their supervision including the electoral process; and c) transferring responsibilities to Kosovo Institutions. The resolution defined the stages of gradual transfer of competencies in the Administration of the Presidential Administration and other areas that passed to the success of the creation of Kosovo.

The Interim Joint Administrative Structures (IJAS) as Interim Organs established in May 2000 were replaced by the Provisional Institutions of Self-Government (PISG) following general elections for the new Institutions. During the first five years of the post-conflict period in Kosovo, the construction of Public Administration went through three main phases: the establishment of the United Nations (UN) Interim Administration, the establishment of the Provisional Institutions of Self-Government (PISG) and the launch of implementation plan "Standards for Kosovo".

The Constitutional Framework for Provisional Self-Government in Kosovo, adopted in May 2001 by the Special Representative of the Secretary-General (SRSG), sets out the role of the PISG and the sharing of their responsibilities with UNMIK (Law in Force

in Kosovo, Regulation no.2000 / 45 on Self-Government of Kosovo Municipalities).

In this direction, the establishment of Kosovo Institutions with three Main Pillars: the Legislature, the Executive and the Judiciary played an important role, although some competencies still remain reserved for UNMIK. The PISG strongly supported the idea that Kosovo's future was linked to Europe, therefore they are committed to ensure that all legislation, especially in the field of Education, Economy and Health, is in line with European Union Standards. This process of capacity building in Public Administration required great political commitment, patience, careful planning and long-term vision as well as effective implementation of EU rules.

The main strength of the PISG reflected the will of Kosovars to establish a functioning Administration, where as a temporary stabilizing factor was the International presence and the great technical assistance that was granted to Kosovo with various projects, in order to create a functioning administration, responsible and reform-oriented. The adoption of European values and norms in every system of administration has promoted the coherent development of Institutions. The Legal, Institutional and Administrative Framework for Civil Service management was set up, both at the local and central level.

4. Strategies for Public Administration Reform

Given the inefficiency of Public Administration in providing services to citizens, institutions, businesses and Civil Society and the high cost of this administration, The Government of Kosovo with Decision No. 4/172 dated 25.10.2005, has approved the initiative of the Ministry of Public Services (MPS) for drafting the "Strategy for Public Administration Reform in Kosovo" (PAR). This Ministry was entrusted by the Government with the management and implementation of this project, the formation and supervision of the work of the Inter-Ministerial Group and the Group of Experts for Public Administration Reform in macroeconomical Kosovo regarding the trends of the main economic and financial indicators; Regulation and Institutional arrangements for macroeconomic policy coordination (Annual work report of the Ministry of Public Services for 2006).

As a result of this, many recommendations have been made which can be used by the Government of Kosovo in general or by individual Institutions within the administration to improve structure and functionality. However, these recommendations represent only the first step in the Public Administration reform process. The FRIDOM project has also supported the Ministry of Public Administration in preparing a new Legal Framework for Public Administration. The FRIDOM functional review project

was completed at the end of June 2010 and the Kosovo Government is continuing to implement the recommendations. As a continuation of this progress, Government Email services, file management services and posting of Government Institutions websites have been provided to Government staff. Several databases have been created, which serve the staff of special Ministries such as: Payment system, Budget system, Register of cadastral transactions, register of vehicles and driver's licenses, electronic voting in the Assembly of Kosovo, KosGIRO that enables payment of various invoices through the internet, etc.

The Kosovo Government in January 2010 approved the "Strategic Development Plan 2009-2013" for the Ministry of Public Administration. This plan includes the reforms proposed by the FRIDOM project approved by the Government in 2008 and aimed at reforming the Public Administration at the central level. (FRIDOM reports-Ministry of Public Administration, Kosovo).

5. Literature Review

From the basic documents of the reform of the Public Administration in Kosovo it can be concluded that the Public Administration reform in Kosovo is of the type of administration modernization. This way of Public Administration reform is typical for countries in transition (unlike the models of "revolutionization of administration" and "new public management", models characteristic of different countries of the world, especially for developed countries) (Batalli, 2012).

In all Central and Local Institutions, to be obliged (recommended) to hold training on ethics in Administration as a measure to prevent abuse of office by officials of Central Administration and Local Administration. To form disciplinary Commissions in each Institution where they have not been formed, while where they are to be functionalized and to be more effective, the Members of the Commission to be nominated distinguished officials who have been evaluated with high etiquette and principle in work.

The interface for running the show is aimed at organizing and holding a political party, you can publish its assessment for communities, if you want to become a democrat in Kosovo. Also, (communities) have the opportunity to further manage their service, where they can look at communities, how to provide Representatives and integrate into the Government of Kosovo, participate in the central ones. Whereas, in those locals this number has been exceeded, show this opportunity for more than the Albanian community (Shala, 2015).

While Kosovo Law provides an adequate normative framework governing the enforcement of detention during criminal proceedings and is largely in line with applicable International Standards, various problems regarding the enforcement of detention in practice still remain. Detention requests filed by Prosecutors and Pre-trial Detention decisions approved by Pre-Trial Judges often contain insufficient reasoning (Abazi, 2018).

Preserving and respecting fundamental human rights and freedoms is and remains the main priority of modern societies, given the fact that they have been achieved and embedded in the consciousness of Western societies at very high human and historical costs. As a joke world history presents us with new challenges demanding the need to find a new balance between respect (Gashi, 2015).

Challenges Towards the Process of Public Administration Reform in Kosovo

Kosovo has gone towards a difficult but very important process in the area of functioning of Public Administration. Public Administration reforms at the level required in Kosovo, required time, demand and perseverance, but also a clear vision, precise direction, leadership, conviction and stability as well as sufficient resources (Stavileci, Sokoli & Batalli, 2010). This process required a series of administrative actions, rules, drafting of a strategic plan, creation of a technologically designed infrastructure as well as identification of instruments, to achieve certain objectives. Due to the conflict in Kosovo at the end of 1999, the Public Administration faced many problems. The common feature of the public sector governance and management system was the requirement to transform the previous model of administration into a modern model of administration. Initially, there was a lack of efficient Institutional capacity to formulate, coordinate and evaluate strategic civil service policies in Kosovo.

Therefore, the professionalism of civil servants was considered a priority in public administration reforms. The concept of transparency, accountability and efficiency in public management needed to be better understood by Managers, Staff, Municipalities and Agencies. The implementation of Information Technology (IT) in Kosovo started with a delay compared to other countries in the region, due to the situation in Kosovo. Governance and capacity management in the Public sector in post-war Kosovo had to be viewed from a slightly broader perspective. The goals, priorities and achievement objectives of an organization could not be set outside the local and central policy agenda as well as the macroeconomic framework.

The three levels of capacity building, focused on creating the environment, building institutions and developing human resources, assessed the weaknesses and strengths of the Public Administration in Kosovo. A more comprehensive reform process was hampered by the fact that the Administration was divided into "reserved" and "transferred" powers, that is, powers that were transferred to the PISG and the functions that remained reserved for the UNMIK Administration.

7. Conclusions

From the basic documents of the Public Administration reform in Kosovo it can be concluded that the Public Administration reform in Kosovo is of the type modernizing the administration. This way of public administration reform is typical for countries in transition (unlike the models of "revolutionization of administration" and "new public management", models that are characteristic for different countries of the world, especially for developed countries). The type of modernizing the administration is understood more as a form of reform in terms of new structuring of the administration in line with systemic changes or as a way of increasing the efficiency and effectiveness of the work of administration. According to this type of reform, there is no radical change in the role and function of the administration as it remains a Public Sector that is managed according to public sector rules. The essence of Public Administration reform, according to the type of modernization, lies in the changes in the work of the administration in relation to the citizens, the efficiency and effectiveness of the administration, as well as the reduction of administrative costs.

The reform of Public Administration in Kosovo as a change and development is influenced by many factors related to the administration itself and its development, as well as the general development of the state. Public Administration reforms in Kosovo have brought important changes, because they are part of comprehensive developments. A functioning and transparent public administration is also an important contributor to state legitimacy and credibility. Today in Kosovo, all central institutions have access to the Internet, which is provided through the IT System Center managed by the Ministry of Public Administration.

Internet access by these institutions is based on their needs and in accordance with applicable administrative instructions. However, the organization and structure of the administration are still problems faced by the public administration at the central and local levels. Codification of administrative procedures is one of the most powerful and effective mechanisms for Public Administration reform in Kosovo and the decision-making process. Appropriate advancements in the area of governance

initiatives and processes depend heavily on the role of government in ensuring an appropriate legal framework.

References

- Denhard R. and Janet P. (2009). Administration: An Action Orientation. 6th Ed. Thomson Wadsworth, Belmont CA.
- 2. Dwigh W. (1972). Developments in Public Administration: The Annals of the American Academy of Political and Social Science.
- 3. Donald K. and James F. (2009). The Politics of the Administrative Process. Washington D.C.
- 4. Mirlinda B. (2011). Impact of Public Administration: Innovations on Enhancing the Citizens' Expectations, International Journal of e- Reforma e administratës publike në Kosovë Thesis, Vol.2.
- 5. Mirlinda B. (2008). Osnovne crte kompjuterizovane javne uprave, Hrvatska Javna Uprava, Journal no. 2.
- 6. Mirlinda B. (2011). Simplification of public administration through use of ICT and other tools, European Journal of ePractice. Vol.12.
- 7. Mark. B. (2004). Zhvillimi i demokracisë së pushtetit vendor në Kosovë, për IDEA-nNdërkombëtare. Available: https://www.researchgate.net/publication/315337450 Reform of Public Administration in Kosovo

PRIZREN SOCIAL SCIENCE JOURNAL

THE IMPORTANCE OF ORAL LANGUAGE PROFICIENCY IN EFL ONLINE TEACHING SETTING



Flora AMITI, PhD. C. @

South East European University, Faculty of Languages, Cultures and Communication, English Department, amitiflora@gmail.com

Article history:

Accepted 12 July 2020 Available online 31 August 2020

Keuwords:

Oral Proficiency, Speaking Skills, E-Learning. Online Teaching, Lesson Plan

Abstract

English language, as an international language has been used in North Macedonia as a foreign language in schools for a considerable amount of time now. English teachers have tried to convey new ways of teaching this language, furthermore adapting to the main four skills in a meticulous manner.

However recently, all of the teachers, were confronted with a worldwide pandemic situation which shaped a different scenario of teaching. A different mechanism that all of the teachers are getting used to, which is online education. The purpose of this study is to analyze how effective was teaching English online for the pupils oral proficiency, whilst communication in English language was limited. Videoconferencing and converting lessons into videos and send them as documented evidence, were two of the main tools mostly used from teachers in schools in Gostivar. The methodology used for this research was qualitative, and it uses two instruments, an observation, and an interview.

The overall study results show that, even though pupils showed improvement in EFL (English as a foreign language) oral proficiency, since the materials used to lecture online where persuasive; some students also had difficulties learning autonomously, without depending on the teachers help. Furthermore, according to the interview responses, the appropriate and detailed lesson planning, helps in combining activities which would emphasize speaking more in online teaching classes.

1. Introduction

Depending on the student's background knowledge, some students in EFLclasses are better in speaking English language. In other words, speaking, writing, listening and reading are the four skills which used correctly in combination by students, make a fluent conversation in English language. The teachers in the online classrooms should work hard to teach the four skills appropriately, but also apply different teaching methods which could help in improving student's oral proficiency.

According to Vilar (2000):

Teachers have two major roles in the classroom: to create the conditions under which learning can take place: the social side of teaching; to impart, by a variety of means, knowledge to their learners: the task-oriented side of teaching. The first is known as the 'enabling' or managerial function, the search for the proper conditions and means for teaching, and the second the instructional function with the teacher as the so-called "instructor". (p. 4)

However, since all of the teachers in Gostivar, were only and exclusively prepared to teach in classrooms confronted by students, hence the traditional method of teaching in the classroom, it was a real struggle to begin with the online teaching method which interrupted the face to face encounters with the students. As noted by Barrera et al (n.d.):

Instead of following traditional paradigms that have the instructor firmly in control, we should adopt entrepreneurial and innovative approaches to learning. Such approaches would permit students to become independent learners, and, at the same time, give the teacher the important role of guide throughout the learning process. (p.7)

Moreover, the communication in English language continued in the online teaching tool named Google Classroom. The face to face communication had dropped unexpectedly, since the methods used were mostly by sending different materials, such as: Power Point Presentations, a summarized daily lesson converted into videos, or videoconferencing. However, the students were asked to send videos while speaking in English language, performing different oral activities. In addition, one of the most used tools for teaching online classes has been Google Classroom. As Shaharanee, Jamil and Rodzi (2016) mentioned "Google classroom can help in changing the focus of the classroom from one that is teacher-centered and controlled to one that is learner-centered and open to inquiry, dialogue, and creative thinking on the part of learners as active participants". (p.2)

Finally, since the speaking skill is the most important one which needs to be mastered, according to Bouzar (2019) "speaking as a skill constitutes a real hurdle to overcome by the teacher and the learner, the teacher has to find appropriate procedures to help the learner with, while the latter has to find a way to master the language". (p.70)

Primarily, students need awareness on the significance of learning an international language, in this case, the teachers should state the importance of speaking English as a foreign language, its advantage for their future education in Gostivar and abroad but also encourage them to find ways to be in touch with each other in this period of pandemic, and communicate outside the class session too.

1.1. Leson Planing

According to Anderson (2015) "The lesson plan pro forma plays a central role in teacher education. It is a necessary component for the assessment of teaching during initial training, advanced qualifications, quality assurance inspections, and in-service teacher development." (p.228) In a lesson plan a teacher transcribes the aims and objectives of the lesson, methods of teaching, teaching techniques, evaluation methods etc., afterwards explains the class session approach in three parts:

- 1. Introduction
- 2. Activities
- 3. Summary and evaluation of the lesson effectiveness

The online classes, undergo the same procedure. Whilst the fact that videoconferencing is important to present the lesson to the students, importance should be given to all of the skills, but mostly 'speaking' since the amount of time they will incorporate speaking English in their everyday life is lower. The speaking activities should be incorporated a lot, at their spare time e.g. students are sent a song, and they should record a video while they sing it, students read a text in the book and record themselves while reading it, the teacher poses questions and expects students to reply by recording themselves while answering them.

According to Albrahim (2020) online instructors must pay attention to what they need to create, develop, and manage their online courses and how to effectively communicate with the learners in the absence of physical presence and interaction. (p.12) The needs of students should be taken into consideration, but also the teachers viewpoint on the level of students oral proficiency.

Figure 1. 9 Steps of Student Guided E-Learning (Taken by Schneider and Meirovich, 2020).



Online teaching is a real process, where it's shown that the online setting should be a student oriented teaching environment, in that way the student will be able to use the speaking skill the most. It should also incorporate group work, group reflection and decision-making in the group (see Figure 1).

An increasing amount of critical analysis and evidence have undermined that the "Online instructors must be able to do the following:

- Expressing and mastering extensive knowledge of the content;
- Stating learning goals and objectives that coincide with learners' levels and characteristics;
- Drafting and developing learning and assessment activities that align with learning goals and objectives;
- Developing a course outline that includes all course components and elements;
- Designing a teaching proposal at the general level and identify each of its phases or elements;

- Developing and selecting appropriate and varied learning resources that accommodate different learning styles and preferences;
- Linking the subject and content with scientific, social, cultural, and any other relevant phenomena; and
- Developing an inventory of existing content and resources and any additional content and resources that will be needed (Abdous, 2011; Bailie, 2011; Bailey & Card, 2009; Bawane& Spector, 2009; Munoz Carril et al., 2013)" (Albrahim, 2020).

2. Literature Review

Learning a new language brings its benefits in life, but it happens that some people are better at languages, some try harder to learn a new language, and others are motivated by external or internal factors. As mentioned by Marcum (2017) "Potential development is what a learner can do with the assistance of others. Actual development is what a learner can do on their own. Learning is the social process that helps a learner move through zones of proximal development, turning potential development into actual development".

Furthermore, it is important to stress the strategies used to learn a new language. If previously a student would depend on the teacher, in the traditional classroom setting; now it's the opposite. The students changed, as much as the way of teaching. The students gained their independence and try to use different strategies in learning. However, the speaking skill should be encouraged mostly by the teacher. As stated by Rao (2018):

The teacher should create interaction by exchanging information and expressing ideas with utmost care about the correct grammar (accuracy), adequate vocabulary, a good pronunciation as well as acceptable fluency to convey a meaningful speech that sounds like a native speakers' own by following the classroom activities such as role-pays, simulation, talking circles, discussions, debates, role cards, information gap activities, storytelling-based activities and so on. (p. 289)

Now more than ever the resourcefulness and the creativity of teachers is needed. Even though the teachers are not native speakers it's important to try to say the words correctly and try an accent too. It follows the idea of Prabavathi and Nagrasubamani (2018) who said that "There are many benefits of oral communication. This form of communication is a quick and direct method of communication. Be it a criticism or praise or information, it helps to convey the message immediately to the receiver. This method of communication enables in obtaining immediate feedback and hence is a form in which two-way communication can be enabled. (p. 30)

Moreover, even though students go into a transition process, where they are alone looking at a computer screen, and there is no teacher presence to explain the instruction or read the text, the students are obliged to find out how certain words are read, find the proper pronunciation on their own by using different pronunciation tools online. Definitely there should be a teacher's feedback as noted by Moore (1989) that the instructor is especially valuable in responding to the learners' application of new knowledge. Whatever self-directed learners can do alone for self-motivation and interaction with content presented, they are vulnerable at the point of application. (para. 8)

The oral proficiency is gained by repetition of words and sentences, so in an online setting if students have the recording of a text, and they hear it several times it benefits them. According to Moore (1989):

While the students and their instructor are attending to a common piece of presentation (usually in a set text, but quite likely on audio- or videotape), each student's response to the presentation is different, and so the response to each student is different. To some a misunderstanding is explained, to others elaborations are given, to others simplifications; for one analogies are drawn, for another supplementary readings suggested. (para. 7)

3. Research Methodology

The present study investigates the importance of speaking English on an e-learning environment and its benefits. The particular research techniques used are asynchronous observation and an interview.

3.1. Research Question

- 1. Does online teaching help in EFL oral proficiency improvement?
- 2. Is using the appropriate lesson plans helpful in e-learning classes?

3.2. Instruments

Two instruments were used for this study, an interview to the teachers which helped in regards to understanding the benefits of oral proficiency in EFL online teaching classes. It was important to recognize if the students were capable of making a progress in speaking the English language, even with inferior communication than the period there was tradition EFL teaching in the classroom. The second instrument was an asynchronous observation, in two different classes with 19 students in the fourth grade. During this research method the students were observed for a month. The communication in English language was taken into consideration while in videoconference, but also there was documented student participation also written feedback from the teacher. Hence, they

were also given the opportunity to prepare videos individually e.g. songs, reading texts, prepare role plays etc. Thus speaking in English could be incorporated. Furthermore the students had time to answer whenever they were free to, there wasn't an attendance time limit.

3.3. Participants

The participants of the study were three English teachers from the primary school 'Faik Konica" in Debresh, Gostivar. Furthermore, 19 students from the same school were observed, they were in fourth grade and it should be taken in consideration that they have been learning English as a foreign language since 1st grade. They were between the ages 10-11, 14 female students and 5 male students.

3.4. Research Results

3.4.1. Results from the Interview

The first method used for this study was the interview. Three teachers tried to bring a closer look to the importance of speaking in an online teaching environment. There were 10 questions in this interview and the interviews were performed individually.

R=Researcher

P=Participant

- Q1: What effect does online learning have on students?
- **P1:** Online learning for students was difficult in the beginning since they weren't used to learning with computers in front of them, the technology part was difficult in the beginning too.
- **P2:** Online learning has received much attention lately, for some students it was difficult since they didn't have the discipline to learn without a teacher as an authority.
- *Q3:* Which one, of the four skills (speaking, writing, reading, and listening) was mostly used by the students while teaching online? *P1:* All of them.
- **P3:** I believe reading, since the materials we sent them had a lot of instructions.
- **Q4:** How difficult was it incorporating speaking skill during the online classes?
- **P1:** It was difficult. Videoconferencing was thought to be the only way to communicate live, but since the time was limited we teachers needed the time to mostly lecture the new lesson.
- **P2:** Speaking skill was mostly incorporated when the student had revision, so it was difficult to find ways to incorporate speaking the most.
- **Q7:** Do you think students improved their oral proficiency while learning online?
- P1: Depends on the student and the circumstances.

- **P2:** The students had an interesting period of learning online, and I believe since we sent them different videos, songs etc. the repetitive listening of the language helped them in learning to combine words in the correct order, also speaking it properly.
- **P3:** Some students really liked this kind of learning, so I believe it helped most of them.
- **Q8:** What changes can be made in the lesson plan in order to stimulate students to use speaking more during the online teaching class sessions?
- **P1:** We could add more discussions, simulations, storytelling and interviews.
- **P2:** It should be a student oriented classroom, where we could send the lecture beforehand and afterwards they would explain it to use on a videoconferencing tool.
- **P3:** The lesson plans guide teachers into having better classes, more interactive and interesting. Hence, preparing the lesson effectively and including speaking activities is crucial.

3.4.2. Results from the Observation

The second method used for this study was the asynchronous observation. It was crucial to perceive the use of the speaking skill while having online classes, and how everything proceeded in a recent however modernized way of teaching. The students were motivated to send different materials where they would express themselves in English language. The interaction between the teacher and the student was great, the dialogues in videoconferencing were productive and essential for the student's oral proficiency. Some students were having difficulties communicating in English language, even though they were urged to do so. Although, the asynchronous way of online teaching did help student have the time to prepare at least for the video presentations provided, and they were asked to be livelier. The observation was done through the specific observation protocol (Appendix 2).

4. Conclusions

Using English language for communication is really important. In this paper, an attempt was made to emphasize the importance of EFL oral proficiency in schools in Gostivar. Since it is not known how long the pandemic will last, we can still believe that we might return to online teaching in September. In this case it is important to foresee the mistakes we could be making and make a difference in the future.

Additionally, based on the interview results we could see that the speaking skills were incorporated in the online teaching lessons, but there were several difficulties with students discipline, also it was the first time the students were facing online classes. Furthermore, it was agreed that there should be incorporated more speaking activities and make a students oriented online classes.

Finally, the observation showed that when students received the appropriate materials, e.g. a recording of a text, and were asked to memorize it and record themselves while saying the words; the students had difficulties in pronouncing some words, some couldn't connect the words and make a correct sentence. However, there were students who were motivated by the online teaching method, and had the urge to express themselves in English language as much as possible. The autonomous learning experience helped them give great results.

All things considered, as communication skills have an enormous importance in personal and professional lives, the students should be stimulated to speak and to express themselves. This research was solely done with the intent to influence and encourage teachers to help their students communicate, express themselves orally when having online teaching classes. The aim is to always think of the student's growth.

References

- 1. Albrahim, F. (2020). Online Teaching Skills and Competencies. The Turkish Online Journal of Educational Technology, 19(1), 9-20. Retrieved July 28, 2020, from https://files.eric.ed.gov/fulltext/EJ1239983.pdf
- 2. Anderson, J. (2015, July). Affordance, learning opportunities, and the lesson plan pro forma. ELT Journal, 69(3), 228-238. Retrieved July 29, 2020, from https://academic.oup.com/eltj/article/69/3/228/464325
- 3. Barrera, A., Ho, C., Garcia, I., Traphagan, T., & Chang, Y.-F. (n.d.). Online vs. Face-to-Face Learning. Retrieved June 31, 2020, from https://www.academia.edu/1576750/Online_vs_Face_to_F ace_Learning
- 4. Bouzar, S. (2019). Issues in Teaching Speaking to EFL Learners. Education and Linguistics Research, 5(2377-1356), 70-79. Retrieved August 01, 2020, from https://doi.org/10.5296/elr.v5i1.14705
- 5. Marcum , J. (2017). Language Proficiency and Cultural Intelligence in Distance. All Graduate Theses and Dissertations. Retrieved August 2, 2020, from https://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=7897&context=etd
- 6. Moore , M. (1989). Editorial: Three Types of Interaction. American Journal of Distance Education, 3(2), 1-7. Retrieved July 30, 2020, from https://www.researchgate.net/publication/237404371 Thre https://www.researchgate.net/publication/237404371 Three Three Types of Interaction
- Prabavathi, R., & Nagasubramani, P. (2018).
 Effective oral and written communication. Journal of Applied and Advanced Research, S29 - S32.

- 8. Rao, P. S. (2018). Developing Speaking Skills in Esl or Efl Settings. International Journal of English Language, Literature, 5(2), 286-293. Retrieved June 15, 2020, from https://www.researchgate.net/publication/331825661_Developing_Speaking_Skills_in_Esl_or_Efl_Settings
- 9. Schneider, L. N., & Meirovich, A. (2020). Student Guided Learning from Teaching to E learning. Revista Românească pentru Educație Multidimensională, 12(1), 115-121. Retrieved June 18, 2020, from https://doi.org/10.18662/rrem/12.1sup2/254
- 10. Shaharanee, I. N., Jamil, J. M., & Rodzi, S. S. (2016, August). Google Classroom as a Tool for Active Learning. Proceedings of the International Conference on Applied Science and Technology. Retrieved June 5, 2020, from https://aip.scitation.org/doi/abs/10.1063/1.4960909
- 11. Vilar , E. B. (2000). Roles of teachers A case study based on: Diary of a language teacher (JOACHIM APPEL 1995). Retrieved July 25, 2020, from https://core.ac.uk/reader/61427370

Appendix 1 - Interview

- 1. What effect does online learning have on students?
- 2. What benefits are obtained of online teaching for you as a teacher?
- 3. Which one, of the four skills (speaking, writing, reading, and listening) was mostly used by the students while teaching online?
- 4. How difficult was it incorporating speaking skill during the online classes?
- 5. Was it difficult to manage time while teaching online and why?
- 6. Which tool should be used more, videoconferencing or converting the lecture into a video, in order to enrich the student's oral proficiency and why?
- 7. Do you think students improved their oral proficiency while learning online?
- 8. What changes can be made in the lesson plan in order to stimulate students to use speaking more during the online teaching class sessions?
- 9. Can learning online benefit the students in the future and how?
- 10. What kind of activities do you suggest should be used in online classes, in order to implement the speaking skill more?

Appendix 2 – Online Class Observation

Online class observation sheet	
Teacher:	
Number of students:	
Online Class Tool:	
Title of lesson:	
Date:	
NAVIGATION	OBSERVATION
The instructions given to the students are	
apprehensible, and online assignments are instructed clearly.	
instructed clearry.	
COURSE DESIGN	OBSERVATION
• The aims and objectives of the online class	
are included • Different learning styles are combined, and	
speaking as a skill is mostly implemented	
COMMUNICATION AND INTERACTION	ODCEDNATION
COMMUNICATION AND INTERACTION The teacher replies to emails within 24	OBSERVATION
hours or less	
Students interact with the teacher in	
videoconferences • For the period that the online teaching is	
asynchronous the students communicate	
with the teacher with commenting, and the	
teacher gives feedback.	
CONTENT	OBSERVATION
• The content and the assignments are is	
suitable to class level.	

SOMEWHERE, SOMETHING INCREDIBLE IS WAITING TO BE KNOWN

Carl SAGAN

