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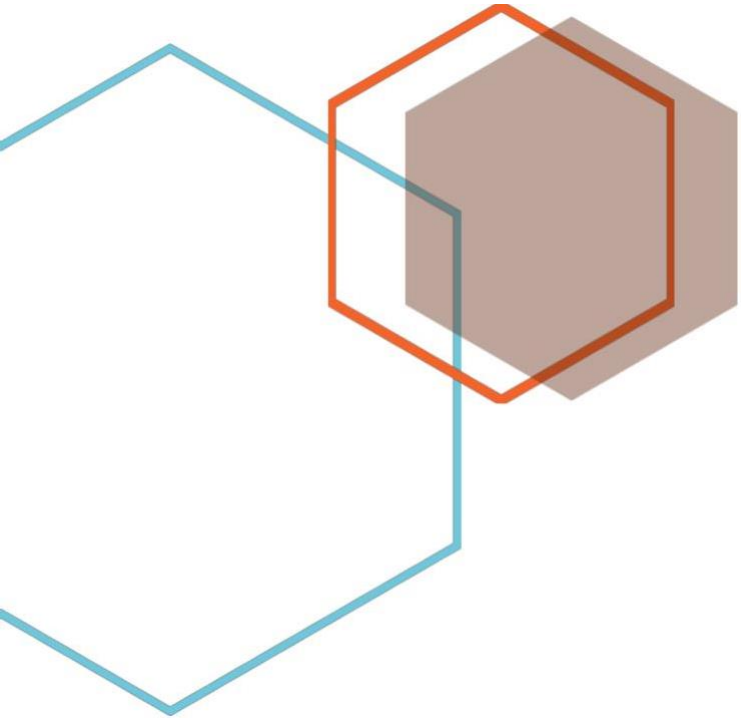

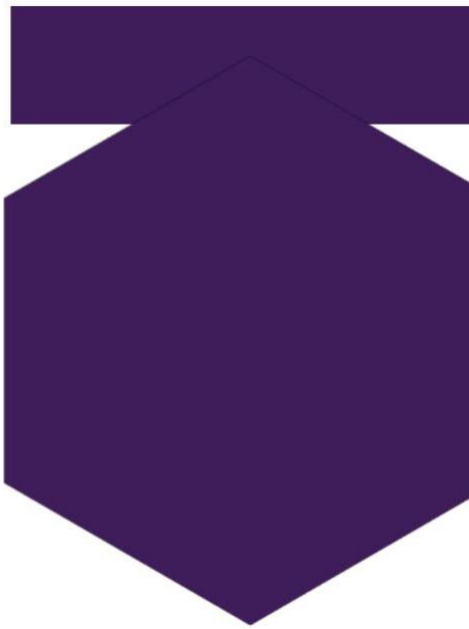

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Zaufanie jako podstawa aktywności zawodowej i moralnej pracownika socjalnego

ABSTRACT: The purpose of this article was to present the issue of trust as a foundation for professional activity of a social worker. The profession of a social worker is considered one of the professions of social trust. The work of this specialist includes comprehensive assistance to people affected, among others, by the problem of poverty, disability, unemployment, homelessness, orphanhood and addictions. All this is related to the situation of social exclusion. In the first part of the article, a critical analysis of the concept of "trust" based on the literature of the subject was made. Next, the basic personal and professional competences of the social worker with regard to trust were presented. These were features that were included in two groups: functional and instrumental features. In the context of the overall activity of a social worker, the moral qualifications are also important, including respect for the dignity of the human person, the right of the client to self-determination, to provide complete information and professional secrecy.

Keywords: trust, social work, personal and professional competences, moral qualification, dignity of the human person

ABSTRACT: Celem niniejszego artykułu było przedstawienie problematyki zaufania jako fundamentu aktywności zawodowej pracownika socjalnego. Zawód pracownika socjalnego uznawany jest za jeden z zawodów zaufania społecznego. Praca tego specjalisty obejmuje wszechstronną pomoc osobom dotkniętym między innymi problemem ubóstwa, niepełnosprawności, bezrobocia, bezdomności, sieroctwa i uzależnień. Wszystko to wiąże się z sytuacją wykluczenia społecznego. W pierwszej części artykułu została dokonana krytyczna analiza pojęcia „zaufanie" na bazie literatury przedmiotu. Następnie zostały przedstawione podstawowe kompetencje osobowościowe i zawodowe pracownika socjalnego w odniesieniu do zaufania. Były to cechy, które zostały ujęte w dwie grupy: cechy funkcjonalne i instrumentalne. W kontekście całościowej aktywności pracownika socjalnego istotne są także

kwalifikacje moralne, do których należą: poszanowanie godności osoby ludzkiej, prawo klienta do samostanowienia, udzielania pełnych informacji oraz zachowania tajemnicy zawodowej.

Słowa kluczowe: zaufanie, praca socjalna, kompetencje osobowościowe i zawodowe, kwalifikacja moralna, godność osoby ludzkiej.

Wprowadzenie

Ufajmy, że to, co nas boli,

dotyka nas najboleśniej,

ma swój sens i że kiedyś zrozumiemy,

jak bardzo było nam to potrzebne.

Jan Twardowski

Ustawa o pomocy społecznej z dnia 12 marca 2004 roku określa z jakich powodów osoby i rodziny mogą skorzystać z pomocy społecznej. W szczególności są to powody wymienione w art 7 ww. ustawy: ubóstwa, sieroctwa; bezdomności; bezrobocia; niepełnosprawności; długotrwałej lub ciężkiej choroby; przemocy w rodzinie; potrzeby ochrony ofiar handlu ludźmi; potrzeby ochrony macierzyństwa lub wielodzietności; bezradności w sprawach opiekuńczo-wychowawczych i prowadzenia gospodarstwa domowego, zwłaszcza w rodzinach niepełnych lub wielodzietnych; trudności w integracji cudzoziemców, którzy uzyskali w Rzeczypospolitej Polskiej status uchodźcy lub ochronę uzupełniającą; trudności w przystosowaniu do życia po zwolnieniu z zakładu karnego; alkoholizmu lub narkomanii; zdarzenia losowego i sytuacji kryzysowej; klęski żywiołowej lub ekologicznej (Ustawa z dnia 12 marca 2004 r. o pomocy społecznej (Dz.U. z 2017 r. poz. 1769).

W Polsce po 1989 roku nastąpiła zmiana ustrojowa, a także decentralizacja pomocy społecznej ze strony państwa. Powstały nowe instytucje demokratyczne, które zastąpiły państwo na szczeblu lokalnym. Można zaliczyć do nich samorządy terytorialne i organizacje pozarządowe o statusie *non profit* (Balicki, 2004, s. 898).

W kontekście nowej, zmienionej sytuacji społecznej coraz większego znaczenia nabiera rola pracownika socjalnego. W Polsce praca socjalna stała się autonomicznym kierunkiem studiów wyższych. Działalność zawodowa pracownika socjalnego wymaga szczególnych dyspozycji. Dyspozycje te kształtują się na fundamencie zaufania budowanego w relacji interpersonalnej: pracownik socjalny – osoba potrzebująca wsparcia.

Szczególne znaczenie w tym procesie odgrywają kompetencje osobowościowe i zawodowe pracownika socjalnego oraz jego kwalifikacje moralne. Zawód pracownika socjalnego jest bowiem jednym z zawodów zaufania społecznego.

Pojęcie zaufania

Zaufanie można by określić jako postawę, która wyraża się w przekonaniu, że konkretne osoby, grupy, instytucje spełnią oczekiwania ufającego podmiotu, będącą podstawą podejmowania różnych działań i aktywności w sytuacji niepewności, braku kontroli i ryzyka (Celińska – Miszczuk, 2014, s. 1271 -1272). Zaufanie można też określić jako relację interpersonalną wobec innych osób oraz grup społecznych, rodzinnych i zawodowych (Biela, 2016, s. 1495). Poziom zaufania zależy przede wszystkim od postrzeganej wiarygodności partnera relacji, składające się z:

- umiejętności uzdalniających obdarzonego zaufaniem do działania;
- życzliwości wynikającej z przekonania ufającego, że obdarzony zaufaniem pragnie jego dobra i nie kieruje się motywami egocentrycznymi;
- uczciwości wyrażającej się w wierze, iż obiekt zaufania jest i pozostanie wierny zasadom, które ufający akceptuje (Celińska – Miszczuk, 2014, s. 1272).

W kontekście pracy socjalnej zaufanie jest fundamentem tzw. zawodów zaufania społecznego. Takie zaufanie konstytuują następujące właściwości:

- autonomia w realizacji zadań o szczególnym znaczeniu publicznym;
- tajemnica zawodowa ze względu na dostęp do prywatnych i intymnych informacji dotyczących innych osób;
- przestrzeganie zasad etyki zawodowej i prawne zabezpieczenia chroniące osoby oraz grupy;

- kontrola nad wykonywaniem zawodu (Celińska – Miszczuk, 2014, s. 1272).

Kapitał zaufania odgrywa znaczącą rolę w analizie decyzyjnej, ponieważ daje szansę na zarządzanie ryzykiem tych alternatyw decyzyjnych, które zakładają wzajemne zaufanie uczestników relacji interpersonalnych.

Zaufanie o charakterze międzyludzkim stanowi podstawę wielu relacji społecznych, w których zakłada się wzajemne poszanowanie informacji prywatnych i intymnych. Odnosi się ono do takich grup społecznych jak, małżeństwo, rodzina, sąsiedztwo, grupa zawodowa, społeczność lokalna lub regionalna, państwo, naród, grupa kulturowa, grupa wyznaniowa i religijna (Biela, 2016, s. 1496).

W języku polskim zaufanie oznacza całkowite zawierzenie komuś lub nawet wiarę w kogoś. Czasownik „zaufać" wyraża całkowitą ufność komuś, a także wiarę w czyjeś zapewnienie, zobowiązanie i przyrzeczenie. Człowiek „zaufany" to w języku potocznym osoba pewna (Stepulak, 2007, s. 19).

Język potoczny zna obok pojęcia „zaufanie", takie zwroty jak: ufać komuś bezgranicznie czy też ufać czyimś obietnicom. To ostatnie wyrażenie jest bliskie praktyce pracownika socjalnego w kontekście przestrzegania zasad tajemnicy zawodowej. Pojęcie „ufać" ma swoje synonimy: polegać, mieć nadzieję, żywić przekonanie, odbudować (mieć) zaufanie, obdarzyć zaufaniem, pokładać ufność (wiarę), zaufać, brać za słowo, zdać się na, wierzyć, móc przysiąc, nie wątpić, przyjąć na wiarę, wierzyć na słowo, dać wiarę (Dąbrówka, Geller, Turczyn, 1995, s. 965).

W codziennej aktywności zawodowej pracownika socjalnego ważne jest podobnie jak w przypadku przeprowadzania badań naukowych zdobycie zaufanie u innych osób. Zaufanie w tym aspekcie może być pojmowane zarówno od strony pozytywnej, jak i negatywnej. W pierwszym przypadku jest regulowane poprzez akty prawne, statuty. W drugim przypadku chodzi o różne przypadki jego naruszania. Warunkiem zaufania jest zapewnienie podopiecznym poczucia bezpieczeństwa oraz prywatności (Sales, Folkman, 2000, s. 56).

Zaufanie jest pojęciem wieloznacznym, ma jednak duże znaczenie psychologiczne. Odnosi się ono nie tylko do porozumienia i komunikacji na linii psycholog/pracownik socjalny – osoba potrzebująca pomocy (opieki) oraz do prawdomówności, ale również do pełnej osobowej

relacji pomiędzy pracownikiem socjalnym a jego podopiecznym. „Zaufanie oznacza coś więcej niż tylko poczucie bezpieczeństwa czy też przywiązania, które jest także charakterystyczne dla zwierząt wyższych. W moim rozumieniu zaufanie jest zjawiskiem psychologicznym, właściwością specyficznie ludzką i osobową" (Stepulak, 2007, s. 21).

Istotnym pojęciem obok zaufania jest dyskrecja. Dyskrecja (łac. *discretio* – oględność). Dyskrecja to „(…) postawa szacunku wobec osobistych tajemnic drugiego człowieka, polegająca na ich zachowaniu i nierozgłaszaniu (aspekt negatywny), a ponadto na niewtrącaniu się do intymnych dziedzin ego osobistego życia (aspekt pozytywny); jako konsekwencja uznania godności osoby ludzkiej i prawa do dobrego imienia. Dyskrecja jest podstawą miłości, życzliwości i kultury wobec drugiego człowieka. Jest integralną częścią cnoty sprawiedliwości. Dyskrecja może być rozumiana jako cecha wrodzona lub też nabyta poprzez świadomy wybór. Wtedy to właśnie stanowi wartość w rozwijaniu osobowości ludzkiej i kształtowaniu społecznych relacji. Dyskrecja obowiązuje każdego człowieka, szczególnie zaś powiernika cudzych tajemnic podczas pełnienia funkcji zawodowych. Niezachowanie dyskrecji staje się wówczas wykroczeniem i w niektórych przypadkach bywa karalna" (Stepulak, 2010, s. 164).

Oprócz dyskrecji bardzo ważną dyspozycją moralną pracownika socjalnego jest prawdomówność. Prawdomówność bowiem stanowi wzmocnienie zaufania. Osoba prawdomówna zawsze mówi prawdę, niezależnie od zachodzących okoliczności. Ma zwyczaj mówienia prawdy. „Pojęcie „prawdomówność" nie pozostaje w asymetrycznym stosunku wobec pojęcia kłamstwa. Kłamstwo jest rodzajem zachowania, natomiast prawdomówność, stanowiąca pewną dyspozycję moralną pracownika socjalnego, jest wyrazem zgodności informacji z własnymi przekonaniami" (Stepulak, 2011, s. 83).

Warto zaznaczyć, iż postawa zaufania, zachowania dyskrecji oraz prawdomówność w aktywności zawodowej pracownika socjalnego wynikają z podstawowej wartości jaką jest poszanowanie godności osoby ludzkiej. Z godnością osobową łączą się również inne wartości, takie jak: prawa człowieka, sprawiedliwość, wolność, równość wobec prawa, samostanowienie czy samorealizacja (Mazur, 2009, s. 15).

W kontekście powyższej analizy pojęcia „zaufanie" i pojęć pokrewnych można by powiedzieć, iż zaufanie zawiera w sobie bardzo bogatą treść. Stanowi równocześnie podstawową kwalifikację zawodową i moralną w aktywności pracownika socjalnego

Kompetencje osobowościowe i zawodowe pracownika socjalnego jako podstawa zaufania

Pracownik socjalny podejmując działalność zawodową wchodzi w obszar sytuacji trudnych, w których pozostają jego podopieczni. „Można mówić o sytuacjach społecznych do których należą zarówno wydarzenia i właściwości tworzące bezpośredni kontekst środowiskowy, jak i bardziej stałe elementy środowiska społecznego, na przykład normy życia społecznego" (Stepulak, 2012, s. 5). Praca socjalna ma swój określony obszar sytuacji trudnych. Nie jest synonimem ani pracy społecznej, ani pomocy społecznej, chociaż wiążą je pewne elementy wspólne. Praca socjalna dotyczy konkretnych urządzeń i inicjatyw, służących pomocą ludziom w ich procesie interakcji z społeczeństwem, aby doszli do takiego poziomu egzystencji, który dawałby pełne poczucie zadowolenia z własnej godności ludzkiej (Młyński, 2009, s. 24).

W społeczeństwie amerykańskim praca socjalna pojmowana jest w podwójnym wymiarze, jako profesja i jako metoda działania specyficzna dla tzw. usług społecznych. Z kolei w usługach tego typu wyróżnia się takie aspekty jak: 1) utrzymanie dochodów (w tym ubezpieczenia społeczne); 2) programu ochrony zdrowia, programy edukacji narodowej; 3) budownictwo socjalne oraz programy zatrudnienia (walka z bezrobociem, elementy ochrony pracy) (Szatur – Jaworska, 1993, s. 107 za Stepulak, 2012, s. 23).

„Wydaje się, iż oryginalną propozycją jest próba definicji pracy socjalnej w kontekście kulturowym i społecznym. Kontekst ten bierze pod uwagę kwestię poszukiwania prawdy. Chroni też aktywność zawodową pracownika socjalnego przed ideologicznymi błędami fałszującymi rzeczywistą, prawdziwą koncepcję człowieka i społeczeństwa. Jeżeli współczesna kultura podejmowałaby walkę z prawdą, to równocześnie walczyłaby z człowiekiem i negatywnie rzutowałoby to na działalność pracownika socjalnego" (Stepulak, 2012, s. 23).

Pracownik socjalny dla adekwatnego funkcjonowania zawodowego musi posiadać odpowiednie cechy osobowości, takie jak:

- poczucie odpowiedzialności;
- rzetelność;
- uprzejmość wobec przełożonych i współpracowników;
- obiektywność;
- stanowczość;

- wrażliwość na ludzkie potrzeby;
- umiejętność pocieszania innych oraz umiejętność niesienia wszechstronnej pomocy;
- bezstronność i poszanowanie godności każdego człowieka;
- altruizm i uczciwość;
- zdolność do kontrolowania swojego postępowania w relacji do osób potrzebujących pomocy;
- nastawienie prospołeczne i altruistyczne;
- komunikatywność i afirmacja siebie (Młyński, 2009, s. 186 – 187).

Biorąc pod uwagę powyższy kontekst naukowej refleksji można by wyróżnić jeszcze dwa rodzaje szczegółowych cech osobowości pracownika socjalnego. Są to cechy funkcjonalne i instrumentalne. Cechy funkcjonalne to:

- bezinteresowność i uczciwość;
- poszanowane godności drugiego człowieka;
- postawa niesienia pomocy;
- zdolność do samokontroli;
- krytyczna ocena swojego postępowania;
- komunikatywność;
- empatia oraz obiektywizm (Młyński, 2009, s. 187).

Do cech instrumentalnych można by zaliczyć:

- zdolność organizacji;
- zdyscyplinowanie;
- konsekwencja w podejmowaniu decyzji i zadań;
- zachowanie taktu i dyskrecji;
- kultura osobista;
- sumienność;
- obowiązkowość;
- odpowiedzialność;
- posługiwanie się prawdą (Młyński, 2009, s. 187).

Osoba uprawniona do wykonywania profesjonalnej pracy socjalnej, w myśl ustawy o pomocy społecznej winna spełnić następujące kryteria:

- posiada dyplom ukończenia kolegium pracowników służb społecznych;
- ukończyła studia wyższe na kierunku praca socjalna;
- do dnia 31 grudnia 2013 r. ukończyła studia wyższe o specjalności przygotowującej do zawodu pracownika socjalnego na jednym z kierunków: pedagogika, pedagogika specjalna, politologia, polityka społeczna, psychologia, socjologia, nauki o rodzinie (Ustawa z dnia 12 marca 2004 r. o pomocy społecznej (Dz.U. z 2017 r. poz. 1769).

Rozwój zawodowy pracownika socjalnego trwa przez całe życie. Początek rozwoju a także jego przebieg zależy od wielu różnorodnych czynników. Zawód jest to profesjonalna działalność, z której człowiek czerpie środki do życia. W sensie ogólnym zawód może oznaczać każda aktywność człowieka, niezależnie od tego z czego jednostka się utrzymuje.

Istotne jest to, iż rozwój zawodowy (w tym pracownika socjalnego) przyjmuje pewne ramy czasowe. Spośród wielu typologii rozwoju zawodnego interesujący jest podział według koncepcji E. Ginzberga.

Tabela 1. Etapy rozwoju zawodowego według E. Ginzberga.

1.	Okres fantazji	6 – 11 r. ż
2	Okres wyboru próbnego	11 – 18 r.ż.
a)	Zainteresowań	11 - 12 r.ż.
b)	Zdolności	12 – 14 r.ż.
c)	Wartości	14 – 16 r.ż.
d)	Przejściowy	16 – 18 r.ż.
2.	Okres wyborów realistycznych	18 – 24 r.ż.
a)	Badania	18- 19 r.ż.

b)	Krystalizacji	19 – 20 r.ż.
c)	Specyfikacji	20 – 24 r.ż.

Źródło: (Rachalska, 1998, s. 763).

Praca oraz wykonywanie zawodu (w tym pracownika socjalnego) jest powszechnym prawem i powołaniem człowieka. Związana jest jednak z podejmowaniem znacznego wysiłku. Z zawodem pracownika socjalnego i psychologa łączy się bardzo staranne przygotowanie w celu zdobycia adekwatnych, specjalistycznych umiejętności i kompetencji zawodowych. Samokształcenie nie kończy się w momencie zdobycia dyplomu, ale wymaga, dalszej permanentnej pracy i doskonalenia zawodowego.

Należy także zwrócić uwagę na takie elementy kwalifikacji zawodowych, takich jak:
a) nastawienie i postawy wobec pracy;

b) stan zdrowotno – fizyczny pracowników;

c) umiejętności wykonawcze, praktyczne i umysłowe (Nowacki, 2003, s. 45 – 49 za Stepulak, 2007, s. 55).

Wysokie kompetencje osobowościowe i zawodowe pracownika socjalnego gwarantują wysoką jakość aktywności zawodowej w relacjach interpersonalnych: pracownik socjalny – podopieczny.

Kwalifikacje moralne pracownika socjalnego – fundament zaufania

Kodeks Etyczny Pracowników Socjalnych i Pracowników Pomocy Społecznej Polskiej Federacji Kodeks Etyczny Polskiego Towarzystwa Pracowników Socjalnych, Związkowej Pracowników Socjalnych i Pomocy Społecznej (http://ptps. ops.pl/kodeks_etyczny.htm, data dostępu, 2018-08-08, godz. 9.45); Stepulak, 2012, s.78 - 79) wymienia podstawowe kwalifikacje moralne pracownika socjalnego w dziale II pt. Odpowiedzialność etyczna pracownika wobec klienta:

1. Pracownik zobowiązany jest do poszanowania godności klienta i jego prawa do samostanowienia.

2. Pracownik jest zobowiązany do równego traktowania klientów bez względu na wiek, płeć, stan cywilny, orientację seksualną, narodowość, wyznanie przekonania polityczne, stan zdrowia, rasę, kolor skóry oraz inne preferencje i cechy osobiste.

3. Pracownik zobowiązany jest wykazać zaangażowanie na rzecz wszechstronnej pomocy klientowi w rozwiązywaniu jego trudności życiowych oraz wykorzystać w tym celu swoją wiedzę, umiejętności zawodowe oraz kompetencje.

4. Pracownik powinien - stosownie do możliwości klienta - wzmacniać jego wysiłki na rzecz życiowego usamodzielnienia.

5. Pracownik zobowiązany jest do udzielenia klientowi pełnej informacji na temat dostępnych świadczeń.

6. Pracownik winien zasięgnąć konsultacji współpracowników i zwierzchników w przypadku, gdy leży to w żywotnym interesie klienta.

7. Pracownik za zgodą klienta ma prawo zaprzestać świadczenia pomocy, gdy wyczerpane zostały przewidziane prawem świadczenia lub gdy takie świadczenia nie są już potrzebne.

8. Pracownik zobowiązany jest do zachowania w tajemnicy informacji uzyskanych od klienta w toku czynności zawodowych.

Biorąc pod uwagę wymienione powyżej normy kodeksowe należy powiedzieć, „iż w swojej aktywności zawodowej (…) pracownik socjalny musi być przygotowany nie tylko od strony nabywania dyspozycji etycznych i moralnych, ale także ma być osobą kompetentną w sensie kwalifikacji zawodowych. Kwalifikacje te bowiem stanowią podstawę postawy moralnej pracownika socjalnego” (Stepulak, 2012, s. 79).

Zawód pracownika socjalnego jest nieformalnie wpisany do grupy zawodów zaufania społecznego. Samo zaś zaufanie jest fundamentalnym przymiotem przynależącym do podejmowanej aktywności zawodowej. Kształtowanie postawy zaufania związane jest z pewnymi dyspozycjami moralnymi osoby ludzkiej. Fundamentalne normy moralne odnoszące się do zaufania to m.in.: „nie kłam”, „bądź lojalny”, „bądź odpowiedzialny za słowo”, „nie kradnij”, „nie oszukuj”. „Wyżej wymienione normy etyczne warto poddać analizie w aspekcie określonych dyspozycji moralnych pracownika socjalnego odnoszących się do postawy zaufania. Na szczególną uwagę zasługują takie dyspozycje moralnej, jak:

prawdomówność, odpowiedzialność za słowo, lojalność, niepożądane zaś zachowania to kłamstwo, oszustwo, zakłamanie oraz donosicielstwo. Warto podkreślić, iż powyższe dyspozycje moralne pojawiają się w sytuacji nawiązywania przez pracownika socjalnego relacji osobowych" (Stepulak, 2002, s. 71; por. Stepulak, 2011, s. 83).

Zaufanie jest warunkiem podjęcia adekwatnego dialogu na linii: pracownik socjalny – podopieczny. Wszelkie oznaki braku zaufania uwidaczniają się między innymi w połowiczności w prezentowaniu własnego stanowiska, poszukiwanie własnego poklasku „czy też irenizm, polegający na częściowym ukrywaniu ze względów taktyczno – sytuacyjnych wyznawanych poglądów, utrudniają dialog. Temu wszystkiemu musi przyświecać cel, którym jest poszukiwanie tego, co prawdziwe, dobre i sprawiedliwe dla każdego człowieka, jak i całej społeczności ludzkiej" (Okońska, 2010, s. 67).

Dialog jest również wyrazem tożsamości zarówno pracownika socjalnego, jak i jego podopiecznych. Należy dodać, iż nie jest możliwa socjalizacja i kształcenie tożsamości poza kategorią zaufania i ufności. Zaufanie mogą wzbudzać tylko ludzie wysoce wiarygodni i przejrzyści. Jednakże warunek ten powinien być przypisywany przede wszystkim pracownikom socjalnym (Okońska, 2010, s. 72).

Działalność zawodowa pracownika socjalnego ma charakter wybitnie służebny. W tym kontekście, aby poznać sytuację człowieka potrzebującego pomocy w XXI wieku oraz konkretny, autentyczny wizerunek pracownika socjalnego, należy zwrócić szczególną uwagę na kwestię godności osoby ludzkiej.

Problem godności ludzkiej urasta współcześnie do rangi fundamentalnego zagadnienia natury etyczno – moralnej. Wiąże się to z tym, iż doświadczamy intensywnej deprecjacji wartości i norm etycznych (Sojka, 2010, s. 429). Rozwój osoby ludzkiej jest w centrum zainteresowania pracownika socjalnego. Zasada rozwoju odpowiada w najpełniejszy sposób dobru klienta i poszanowania jego niezbywalnej godności. „Stanowi też o jakości działań na rzecz potrzebujących, zabezpiecza przed jednostronnym (np. tylko materialnym lub tylko psychologicznym czy psychoterapeutycznym) ujmowaniem procesu pomagania, każde bowiem wiedzieć całą złożoność osoby i jej obecnego, a także przeszłego doświadczenia. Zasada integralnego rozwoju winna towarzyszyć relacji z pojedynczą osobą, organizowaniu

bądź prowadzeniu grupy, wreszcie w planowaniu i aktywizacji społeczności lokalnych" (Szymczyk, 2009, s. 184 – 185).

Bardzo istotną zasadą moralną w aktywności zawodowej pracownika socjalnego jest samostanowienie. Dotyczy ona uznania prawa podopiecznego do wolności, w tym również prawa do popełniania błędów i odpowiedzialności za swoje życie. „Realizacja zasady uczestnictwa, czyli czynnego włączenia poszczególnych osób, w procesy, które dotyczą ich środowiska, wymaga adekwatnej roli pracowników socjalnych.

We współczesnej praktyce pracy socjalnej coraz częściej przypisuje się im zadania animatorów społecznych" (Szymczak, 2009, s. 188).

Inną znaczącą zasadą moralną w działalności pracownika socjalnego jest skuteczność. „Skuteczność to wymóg stanowiący konsekwencję przyjętych wcześniej priorytetów: osoby i jej rozwoju oraz uczestnictwa. Pracownik socjalny podejmuje działania wobec osoby, która z różnych przyczyn nie jest w stanie sama rozwiązać trudnej sytuacji życiowej. W ustalonej w ten sposób relacji zachodzi pewien stopień zależności i podległości" (Szymczak, 2009, s. 190).

Skuteczność w dzianiu wynika także z intensywności wsparcia społecznego udzielanego przez pracownika socjalnego osobom potrzebującym. Badania naukowe wykazały, iż najczęstszymi subiektywnymi powodami skłaniającymi ludzi do pomagania innych są w kolejności:

- prośba o pomoc i posiadane kompetencje;
- osiąganie przyjemności z pomagania;
- poczucie obowiązku;
- nieumiejętność odmowy na prośbę (Sowa, 2004, s. 34).

Pracownicy socjalni w swojej aktywności zawodowej muszą wykazać się empatią wobec swoich podopiecznych, zwłaszcza ubogich. „Pracownicy socjalni charakteryzujący sytuacje swoich, często długoletnich, podopiecznych opisują specyficzny koloryt przestrzeni, w jakiej toczy się codzienne życie ludzi ubogich, koloryt przestrzeni szarej, bezbarwnej, odzwierciedlającej czy symbolizującej szarość i bezbarwność ich życia. Ukazują też swoje

dylematy związane z postrzeganiem położenia rodziny, które są ich klientami i potrzebą rzeczywistą lub wymuszoną udzielania im pomocy" (Kawczyńska – Butrym, 2003, s. 28).

Reasumując można by powiedzieć, iż wysokie kwalifikacje moralne pracownika socjalnego połączone z jego dyspozycjami osobowościowymi i kompetencjami zawodowymi stanowią o powodzeniu w jego codziennej pracy, gwarantując wysoką skuteczność.

Zakończenie

Problematyka niniejszego artykułu odnosi się do obszaru trudnej i bardzo odpowiedzialnej działalności zawodowej pracownika socjalnego. Podstawą tej działalności jest zaufanie na linii: pracownik socjalny – podopieczny. Pracownik socjalny to zawód zaufania społecznego polegający na skutecznym zajmowaniu się różnymi grupami osób. Są to m.in. ludzie dotknięci ubóstwem, sieroctwem, bezdomnością, bezrobociem, niepełnosprawnością. Zaufanie można rozumieć jako postawę wyrażającą się w przekonaniu, iż konkretne osoby, grupy, instytucje mogą spełnić oczekiwania ufającego podmiotu, będące podstawą podejmowania różnych działań i aktywności w sytuacji niepewności, braku kontroli i ryzyka. W pracy z osobami potrzebującymi socjalnego wsparcia, specjaliści muszą posiadać określone kompetencje osobowościowe i zawodowe. Do cech osobowościowych można zaliczyć cechy funkcjonalne i instrumentalne. W skład tych pierwszych wchodzą takie cechy jak: bezinteresowność i uczciwość, poszanowanie godności osoby ludzkiej, zdolność do samokontroli, krytyczne podejście do swojego postępowania, komunikatywność, empatia oraz obiektywizm. Do cech instrumentalnych zaliczamy: zmysł organizacyjny, samodyscyplina, konsekwencja w działaniu, takt i dyskrecja, kultura osobista, sumienność, obowiązkowość, odpowiedzialność, posługiwanie się prawdą, posługiwanie się prawdą. Pracownik socjalny zobowiązany jest do ciągłego podnoszenia swoich kompetencji zawodowych. W kontekście integralnej działalności zawodowej pracownika socjalnego ważne są również jego kwalifikacje moralne, do których można by zaliczyć takie jak: poszanowanie prawa klienta do samostanowienia, równego traktowania klientów, udzielania wszechstronnej pomocy, udzielania pełnych informacji, zachowania tajemnicy zawodowej. Warto dodać, iż kompetencje osobowościowe i zawodowe pracownika socjalnego pokrywają się z jego kwalifikacjami moralnymi.

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Vulnerable people and crime

ABSTRACT: Crime is a hard concept to define because it is socially constructed, it involves many factors that define the action as a 'crime'. According to the definition of crime from The Sage Dictionary of Criminology (2015) there are three key elements that determine a crime; harm, social consensus and the societal response. This essay will contain three parts and each part will explain in detail different aspects of crime, victimisation, and the theories behind crime. Part 1 of this essay will focus on defining the hard concept of crime, why it is so difficult to measure and describe the problems with official statistics. Part 2 will show how crime and victimisation differs across social divisions such as gender, ethnicity and class. Part 3 will explain in detail two chosen theories of crime which are classicism and differential association theory. The article will also contain a conclusion at the end which will summarise all three parts discussed throughout.

Part 1: What is crime and why is it difficult to measure?

Edwin Schur (1969:10) noted that 'Once we recognise that crime is defined by the criminal law and is therefore variable in content, we see quite clearly that no explanation of crime limits itself to the motivation and behaviour of individuals can ever be a complete one'. The fact that criminal law varies from country to country shows that there are no clear facts given about what crime is that could be applied everywhere no matter what country. Christie (2004) says that crime does not exist, it is simply the act itself that exists, and those acts have different meanings across various societies.

Crime also varies across history which gives an insight into the social construction of it. In the 1960s Great Britain was referred to as the 'permissive age' due to the lowering of social morality and the passing of liberalising laws such as The Abortion Act 1967 which gave women

the right to end a pregnancy under certain circumstances. Prior to that it was not only illegal to have an abortion but also socially unacceptable however, over time the societal views have changed and today abortion is not a taboo subject anymore and many countries have legalised it. Another example of crime changing over time is that until the Sexual Offences Act 1967 has been passed it was illegal for men to have same sex intercourse and today homosexuality is widely spoken about and homosexuals have been granted the right to marry. Up until First World it was legal to use heroin, opium and cocaine. Even after the use of them has been restricted it was still legal for the doctor to prescribe them therefore consumption was not a criminal act. This shows that society not always accepts the acts and grants them legality but also some acts become socially unacceptable over time such as the use of drugs. Of course, there are still people that do use them however, now it is a criminal act.

The examples of historical variations assume that the power to determine crime is up to the nation state. Globalisation across the world means that people and countries are more interdependent and what is significant for one country may not be for another therefore laws will differ and so will crime.

Part 2: How does crime and victimisation differ across different social divisions?

In England and Wales, the data collected by the police is referred to as recorded crime statistics. Due to the data collected by the police not containing the 'dark figure' which is the figure of unreported crime the Crime Survey for England and Wales was developed as a second approach to statistics. The survey is collected from a sample of the population about their experiences of crime. This is supposed to provide a more accurate representation of victimisation and the level of offending. Farrington and Lagan (2004) have said that the survey is a 'more accurate measure of crime levels and trends than the data collected by law enforcement agencies.

There are approximately 100 different offences that are noted in the official statistics and then are grouped into 9 categories of crime: Theft and handling stolen goods, criminal damage, burglary, sexual offences, robbery, violence against the person, drug offences, fraud and forgery and other offences. In 2014 there was 3,717,100 crimes recorder by the police. Violence against

the person was accounted for 666.7 thousand. However, in 1975 violent crime only accounted for 5% of the offences committed. When reading statistics different things need to be looked at such as is the nature of crime changing or are people simply reporting such crimes more often therefore more appear in the statistics.

There are many limitations of the official statistics. What is brought to the attention of the police and the response is what will appear in the statistics. Due to the statistics being only offence focused there is no insight into the offender and victim. The statistics therefore lack information about what age, gender, ethnic background and social status both the offender and victim are. In addition, the official statistics only contain a limited number of offences not all. Only notifiable offences are included therefore summary offences do not account as a part of the statistics. Maguire (2002) observes that many politicians use crime statistics as an accurate measure of crime which leads to certain crimes receiving larger publicity and add to the arguments about police effectiveness and the need to change laws. The crime statistics are also not very effective for understanding social context and risks of victimisation.

Female offending tends to be linked to poverty, over 60% of offences committed by females were theft related. Box and Hale (1993) also say that financial insecurity is a strong predictor of female property crime. TV license evasion accounted for 36% of all prosecutions of females in 2015. ‘’Women commit fewer crimes than men, their criminal careers are shorter, and they serve shorter prison sentences. Their rates of recidivism are lower than those of men regardless of the sense they receive.’’ Worrall (2003:40). Majority of female prisoners are single and aged 21-39 years, 30% are from ethnic minorities and 66% are drug dependent or abuse alcohol. 80% have a mental health problem and 4 in 10 attempted suicide. Female prisoners were also more likely than men to have experienced abuse and witnessed violence in their home as a child.

The Crime Survey for England and Wales estimated that in the period of 2011-11 approximately 9.6 millions of crimes was against adults living in private households. The chance of becoming a victim of crime was 21%. Men that are single and aged between 16-24 are more likely to be victims of violent crime. It can be noticed that criminal victimisation is socially unevenly distributed. Hope (2001) calculated the level of property crime in different

geographical areas. The 20% of areas that were less deprived had a crime rate of 17% compared to the 49% of crime committed in the most deprived areas. He concluded that around one-fifth of victims of property crime live in the 10% of areas with the highest crime rates and account for one-third of the total property crimes.

Vulnerable people are more likely to be victims of crime. Newburn and Rock (2006) have conducted a study amongst 300 homeless people in London, Oxford and Cambridge to provide an extent of criminality amongst this population. The survey indicated very high level of victimisation. 67% of respondents said that they have experienced theft in the last year, 43% of homeless have reported having suffered property damage and 20% of the homeless suffered burglary. Approximately half have suffered violence and 8% have been sexually assaulted. In most cases of violence and sexual assaults the perpetrator was a member of the public.

Moral panics have associated street crime with young African-Caribbean males however, statistics show that Black people are more likely than white people to be victims of crime. 6% of Black people are reported to be victims once or more of a personal crime according to the Crime Survey for England and Wales. Victimisation differs between white and minority groups due to the differences in the area that they live in, age and social class.

Gottfredson and Hirschi (1990) observed that most crime is committed by men. Using the data from people born in 1953 the Home office estimated that by the age of 46 only 9% of women had a conviction compared with 33% of men. Research by the home office in 1995 found that half of males and one-third of females between the ages of 14 and 25 admitted to having committed an offence. MORI (2004) and Criminal Statistics (2004) estimate that the peak age of offending is between 15 and 18. Roe and Ashe (2008) show that 10-25-year olds committing any offence is higher for men. A more recent figure of September 2014 shows that males aged 21+ had committed 19.2 thousand violent offences compared to 2.3 thousands of women in the same age group.

Part 3: Describe 2 theories of crime covered in the module

Classicism was developed in the enlightenment movement of the late 18th century Europe. One of the key classicism criminologists was Cesare Beccaria who put forward his views concerning crime and how the state should respond to it. He made a point that crime was undertaken by a rational being meaning that people possess free will and therefore the criminal act is a rational decision where the person has calculated their benefits and costs involved in committing the offence. Classists also argue that crime required a uniform and consistent response therefore the most accurate solution to crime was clearly stating the law. This meant that the offender would know exactly of the consequences associated with committing the crime. Furthermore, the idea of classicism was that all punishments should fit the crime. Due to the classic approach focusing on the act itself not the person the intent of the crime was irrelevant and instead of punishing the offender the idea was to deter them from further criminal behaviour. Baccaria's general theory was 'That a punishment may not be an act of violence, of one, or of many against a private member of society, it should be public, immediate and necessary; the least possible in the case given; proportionate to the crime, and determined by the laws' (Cullen and Agnew, 2006:25)

Classical thinking had a great impact on criminological theories and the practice of criminal justice systems. Europe's and America's theory of law was largely affected by classicism especially within the punishment system where the use of torture and corporal punishment became prohibited. During 18th and 19th century prisons became a vital element of modern punishment. Taylor et al (1973) said that the improvement in penal laws is primarily due to Beccaria's work. However, Classicism has its criticisms. The idea that classical thought treats all individuals as rational overlooks the incapacity such as mental illnesses and learning difficulties when the offender commits crime.

Edwin Sutherland was a criminologist who focused on how differential forms of organisation lead to cultural influences and understood criminal behaviour as learned behaviour, the theory also involved both individual and social factors. Sutherland made an attempt to bring psychological and sociological matters into understanding criminal conduct. The principle of differential association is that the criminal behaviour is learned through

interaction within intimate personal groups and an individual becomes delinquent because of an excess of definitions favorable to violation of law. Techniques of committing the crime and motives are also learned. Similarly, to Sutherland, Frederick Thrasher (1927) argued in 'The gang' that the ideas behind criminal behaviour were passed from generation to generation of males committing street crimes. The main idea of differential association theory is that the person is simply exposed to more ideas that promote criminal behaviour and law breaking.

Skinner's box is one experiment that proves how behaviour is learnt and could be applied to differential association theory. Skinner discovered that the rat left in his operant conditioning chamber did not engage into particular behaviours because of the prior factors but due to the result of his actions. The rat pressed the bar for food not because he did it all the time but because there was food coming out each time and that was his reward. Similarly it can be concluded that people do not commit crime because they have committed them before but due to the reward that they are getting such as money after a robbery however, the actions of how to commit the crime and get the reward must be learnt prior to the event.

Sutherland also challenged the concept behind 'white collar crime' in the 1940s. The traditional approach highly neglected any crime that was not committed by the working class. He defined white collar crime as 'a crime committed by a person of respectability and high social status in the course of his occupation' (Sutherland, 1949). White collar crime was divided into three different elaborations. Occupational crime which describes the activity to seek advantage at the expense of an employer or the employer's customers. Corporate crime which is the lawbreaking in order to advance organisational goals such as unfair trade or manufacture violations and worker exploitations. Lastly there is middle-class crime which is committed by the people of high social status however, not in their workplace. The offences committed by middle-class would-be tax evasion or fraud.

The strengths of differential association theory are that is examines white collar crime and draws a high attention to social factors. However, some may argue that the theory is too simplistic therefore not all crime can be explained.

In conclusion crime has many definitions as it is a socially constructed concept that differs across countries due to various different laws. If we take a simple approach towards crime it is any act that breaks the law. What if a person receives a speeding fine? The act is against the law, but can the society brand the person as a criminal? Crime tends to be committed by men and in majority of the cases it is violent crime. However, men aged 16-24 are also more likely to be victims of violent crime against the person. Newburn and Rock study (2006) shows that homeless people are also more likely to be victims of crime such as robbery and sexual violence. Victimisation and crime will differ amongst social divisions, are the person lives in and age.

Different theories try to explain crime and why people commit based on their gender, age, social status and ethnicity. One of the main theories that this essay focused on was classicism. Cesare Beccaria proposed that all people are rational and have a free will therefore criminal behaviour is a rational choice of the individual however, this theory does not take into account the mentally ill or disabled who's thought process will be entirely different and they may be unable to make rational decisions. The theory had its advantages with one of them being that it had a significant impact on penal laws. Another theory that is mentioned throughout is differential association developed mainly by Edwin Sutherland that takes into account social and individual differences when explaining crime.

The main principle of this theory is that criminal behaviour is learnt and so is the technique of committing an offence. He also challenged 'white collar crime' and split it into different offences but it is arguable that the theory remains too simplistic when trying to explain crime and offending.

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A comparative study on the digitalization of law

Abstract:

In this study, digitalization and development of digital law as a new field of study will be examined. Main focus will be on the legislation of developed countries, the EU and emerging market countries that follow these developments. In this sense, crowdfunding, smart contracts and data protection issues will be explained over the national and international legislations by focusing on legal problems and recent developments. To do that, a comparative method will be followed in order to underline legal background and differences between the legislation of developed countries and emerging market countries. Hence, it has been aimed to provide a general overview regarding the digitalization and its legal consequences.

Like many professions, the law has also influenced by the rapidly developing technology in the last century. This influence has resulted in search of new codification needs for the legal gaps and development of digital law itself as a new field of study. According to the Oxford English Dictionary (OED), digitalization refers to "the adoption or increase in use of digital or computer technology by an organization, industry, country, etc."[1]

The USA, the UK and the EU that are leading to technological production have made the first regulations in the area of digitalization. It is seen that the emerging market countries and developing countries have followed the developments and made several amendments.

For instance, Turkey, as an emerging market country, has started to the digitalization in legal, corporal and monetary affairs along with the development of e-signature in the beginning of the 2000s with the enactment of the Law on Electronic Signature. Following this, it is seen that

[1] Oxford English Dictionary, 'Digitalization and Digitization' <http://culturedigitally.org/2014/09/digitalizationand- digitization/> accessed 27 November 2019

enactment of the new Turkish Commercial Code (TCC) and new reforms in tax law have accelerated digitalization of law. [2]

Thanks to the TCC, which entered into force on 1 July 2012, online general assembly meetings and board of directors' meetings have been introduced to Turkish Commercial Practice and, the TCC has allowed electronic notification by using registered e-mail addresses. Synchronously, reforms in tax law has enabled companies to issue electronic bills and to keep their commercial records in electronic format.[3]

When Turkey had met the term of digitalization for the first time, the USA, as one of the leading countries in the area of digitalization, was introduced to modern crowdfunding which can be defined as a method of collecting many small contributions, by means of an online funding platform, to finance or capitalize a popular enterprise.[4]

Since funding is one of the major problem investors face, investors who lack funding have great difficulties in bringing their projects into action. It is very well known that the factors affecting the intention to attend the crowdfunding process as a backer plays key role for investigations. In this sense, crowdfunding has emerged as an alternative source of finance.[5]

While the history of fundraising platform can be traced back to late 17th century, modern crowdfunding got attention, for the first time, in 2003 in the USA. Aftermath, it is recorded that several Crowdfunding projects have ended in success. For example: ArtistShare, Kickstarter, Coolest Cooler are among the most well knowns.[6]

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[2] Turkish Commercial Law Review, 'Digitalization of Companies in Turkey'< http://the-tclr.org/thedigitalization-of-companies-in-turkey/> accessed 15 January 2019

[3] Turkish Commercial Law Review, 'Digitalization of Companies in Turkey'< http://the-tclr.org/thedigitalization-of-companies-in-turkey/> accessed 15 January 2019

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[5] S.Tolun, C.Gurler and M.Caglar, 'Crowdfunding Success Prediction: An Emprical Study On Indiegogo Platform', 13 September 2017, 34th International Academic Conference, Florence ISBN 978-80-87927-43-4, IISES

[6] The History of Crowdfunding,< https://www.fundable.com/crowdfunding101/history-of-crowdfunding > accessed on 25 January 2019

Not only in the USA, but also in other countries, terminological differences have gained importance due to lack of codification in this field as the term of Crowdfunding mostly confuse with crowdsourcing. To put it simply, crowdsourcing is the sourcing of anything from a crowd while crowdfunding is the sourcing of funds from a crowd. As is understood, crowdfunding, which is the sourcing of funds or money from a crowd, is a specific type of crowdsourcing. [7]

As is expected, crowdfunding has also brought several legal questions along with its development in daily business practice. Intellectual property rights and question regarding their situation in terms of Crowdfunding have gained attention. For example: even though all-reward-based on crowdfunding campaigners retain their intellectual property rights, many non-proprietary projects face the risk to be stolen.[8]

As regards to the types of crowdfunding, there are four kinds of crowdfunding which are as follows reward-based crowdfunding, debt-based crowdfunding, donation-based crowdfunding and, equity crowdfunding.[9]

One of them is Debt-based crowdfunding has emerged as an investment vehicle in 2006 in the United States, and a year earlier in the UK[10]. Even though crowdfunding is not present in every country, developed and developing countries have tended to regulate and give a chance to it. The UK, as a leading country in this area, has made several codifications allowing the crowdfunding. In Germany, the law regulating crowdfunding went into force on the 10th of July 2015[11]. 11 Then, a year after, the German Crowdfunding Association has taken stock of its positive impact on the German crowd investing market and pointed to strong needs for improvement. On the other hand, in Turkey, there are several provisions set out in the Turkish Commercial Law and prevent crowdfunding affairs among the trade practitioners, i.e: Article

[7] Crowdfunding vs. Crowdsourcing, <http://crowdfundinghacks.com/crowdfunding-vs-crowdsourcing/> accessed on 02 February 2019

[8] History of Crowdfunding<https://www.freedman-chicago.com/ec4i/History-of-Crowdfunding.pdf > accessed on 02 February 2019

[9] Ozgur Kocabasoglu, 'Regulatory approaches to crowdfunding in European Union' <http://www.erdemerdem.av.tr/publications/newsletter/regulatory-approaches-to-crowdfunding-in-european-union/ > accessed on 05 February 2019

[10] History of Crowdfunding:<https://www.freedman-chicago.com/ec4i/History-of-Crowdfunding.pdf> accessed on 02 February 2019

[11] Kleinanlegerschutzgesetz

552 and 574 of the TCC are among the most popular. According to Article 552, money funding that is not in conformity with the exceptions regulated under Capital Market Law is clearly prohibited.

Eventually, Article 107 of Capital Market Law numbered 6362 and dated 6/12/2012, has been changed in favor of crowdfunding. According to Article 108 of the Capital Market Law, crowdfunding activities are required an official authorization given by the Capital Market Board.

It should be noted that, Turkey has also taken some significant steps in digitalization of commercial law. E-signature, registered e-mail and e-notification system have enabled to be Turkish companies digitalized.[12] Currently, General Journal and General Ledger of Turkish Companies' are kept in digital forms.

Another term that is closely associated with digitalization of law is smart contracts which are used for various intentions including but not limited to crowdfunding, automatic payment system of Banks, delivery of Insurance companies or postal companies. Even though smart contracts are equal with normal contracts in theory, they are also immutable, which means, once they are created, they can never be changed. Additional of it, smart contacts are distributed. And this refers to the confirmation of those who are linked into system or simply entered into contract.[13]

The Major problem about smart contracts occur when they, also referred to as a chain code which is "self-executing" code that can receive various inputs and, based on "if-then" logic. As is understood, smart contracts can be encoded on any blockchain.[14] Blockchains are rated, undeniably, faster, cheaper, and more secure than traditional systems, which is why according to some sources, banks and governments are turning to them.[15]

[12] Turkish Commercial Law Review, 'Digitalization of Companies in Turkey'< http://thetclr.org/thedigitalization-of-companies-in-turkey/> accessed 15 January 2019

[13] [13]C. Lim,TJ Saw and C. Sargeant ' Smart Contracts: Bridging the Gap Between Expectation and Reality' University of Oxford, Faculty of Law Blog,2016

[14] ibid

[15] Smart Contracts: The Blockchain Technology That Will Replace Lawyers< https://thonguyen.net/smartcontracts- the-blockchain-technology-that-will-replace-lawyers/ > accessed on 06 February 2019

When it comes to the EU, Smart Contract is linked with several fields of Law. Mainly, it is relevant with Private International Law, Conflict of Laws and the Commercial Law. By virtue of Article 1 of Rome I Regulation, the regulation covers almost all contractual obligations in civil and commercial matters and applies only to contractual obligations in a legal sense. As Rühl, Braegelmann and Kaulartz stated: "A smart contract is—at least in most cases—merely a piece of software or programme code that controls, monitors, or documents the execution of a contract that has been concluded elsewhere. The Rome I Regulation will, therefore, usually not apply to the smart contract as such, but 'only' to the contract which it helps to execute…"[16] On the other hand, Article 3 of the Rome I Regulation strongly put emphasizes on Freedom of choice. Since Article 3(1) Rome I Regulation places high demands on an implied choice of law; it must be 'clearly demonstrated' by the terms of the contracts or the circumstances of the case and there must be evidence that the parties actually had the will to choose the applicable law. Therefore, in many cases, a choice of law will, therefore, be missing. Yet this is nothing special— and nothing that can only occur when parties conclude a smart contract.[17]

Besides of above-mentioned circumstances, there are some other legal questions or problems regarding Smart Contracts. Such as: performances that are not suitable for deterministic computer logic embodied in a smart contract, some terms that require human judgement rather than a computer logic, error or omission that may occur in code.[18]

Additionally, there are some issues which have to be dealt with in contract law. These are issues such as: the code-based misunderstanding, misrepresentation, impossibility to detect legal capacity of the person who is subject to enter into the smart contract.[19]

As it is seen, there are several questions to be answered and risks should be taken into account while entering into a smart contract. Speaking of Digitalization of Law, here is a point that data

[16] Giesela Rühl, Smart contracts – Welches Recht gilt?' in T Braegelmann and M Kaulartz (eds), Smart Contracts (C.H. Beck 2019

[17] Giesela Rühl, 'The Law Applicable to Smart Contracts, or Much Ado About Nothing?' University of Oxford, Faculty of Law Blog, 23 Jan 2019

[18] C. Lim,TJ Saw and C. Sargeant ' Smart Contracts: Bridging the Gap Between Expectation and Reality' University of Oxford, Faculty of Law Blog,2016

[19] Ibid

protection has gained particular importance due to this rapid development in digital world. In this sense, several amendment and codification have been made in the World. In the USA, similar to the crowdfunding regulations, the protection of data for US residents is regulated by laws enacted both in the national and the state level.

In the UK, process of personal data about a client, prospective client, supplier or employee is regulated under the data protection law, the Data Protection Act 1998 (DPA) and remained the position under the EU data protection law – the General Data Protection Regulation 2016 (GDPR) – which has come into force in the UK on 25 May 2018. As is stated above, in the EU, a Directive named Data Protection Directive (also known as Directive 95/46/EC) adopted by the European Union to protect the privacy and protection of all personal data collected for or about citizens of the EU.[20]

Due to the speedy digitalization, many data protection cases have come to existence as well. In 2015, a case was brought by the Hungarian data protection authority against property website Weltimmo, which operates a property advertising service in Hungary but is based in Slovakia. The ECJ decided that Weltimmo could be liable for fines imposed by the Hungarian authority for breach of national data protection law. According to this decision of the ECJ, if a company operates a service in the native language of a country, and has representatives in that country, then it can be held accountable by the country's national data protection agency despite not being headquartered in the country.[21] This judgement has a considerable importance since it directly applicable to the other companies as well. For instance, before the judgment, companies which choose to headquarter their European operations in one country, such as Ireland or the UK, were thought to be subject to regulation only within that country. So that the companies could operate in any EU member state without having to gain regulatory approval in each country.[22] And this practice has ended due to the ECJ's decision.

Explicitly, the most famous data protection cases of the 21st century were about Facebook. On 17 of March 2018, the Cambridge Analytica was the biggest scandal that Facebook faced after

[20] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal L 281, 23/11/1995 P. 0031 - 0050

[21] 21Case C-230/14, the Hungarian Data Protection Authority vs. Weltimmo, [2015] ECLI:EU:C:2015:639

[22] Samuel Gibbs, 'Landmark ECJ data protection ruling could impact Facebook and Google' (Fri 2 Oct 2015)

2016 elections of the USA. After the scandal broke out, Facebook faced several lawsuits.

In conclusion, digitalization is in interaction with several business areas including legal professions as well. Not only has the emerging developments in digitalization a big influence on law, but also the law as a profession has become a part of this digitalization process. So that, digital law has arisen as a new field of study and developed in the countries who are leading to the technological production. Along with this, new terms including but not limited to cybercrimes, data protection, smart contacts, crowdfunding, crowdsourcing, blockchain, IPRs have taken their part in legal literature. The first regulations regarding above-mentioned topics have also been made. Emerging market countries, like Turkey, have been following the developments in digitalization of law by taking into account new codifications made in the EU and other countries.

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Lack of managerial skills in conflict resolving

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Conflict management skill is one of the most wanted competences within the management sector at today's labour market.

The phenomenon of mobbing exists, where employees are treated instrumentally, are subject to expressing opinions, outsource more tasks to be performed than a person can perform, gives tasks below the requirements that customers must meet, especially in a homogenic environment with women only.

Nowadays, various groups of people might face significant difficulties in finding a job. The employer may be inaccessible, may start to dictate the conditions, may demand more and more, may do not submit comments on employee rotation, may apply wrong decisions, may say, that people / human resources may be replace each time. People who are looking for a job and know some companies with a tense atmosphere, terror and employee but with a vacancy, are in a very difficult situation, a conflict, as the question arises: do I pay the price by working for this company? Or maybe they say: this time will be different; I am strong enough to draw the boundaries... Are you really?

On the one hand, people want to work, on the other they don't want to have a bossy manager who will bully employees at workplace.

Mobbing has an impact on the recession in the economy - costs are reduced to a minimum, and care about the mental state of the employees comes to the background. These negative processes are also where management ignores the growing conflicts or, on the contrary, participate in them, becoming one of the parties. The spiral that winds up the phenomenon of persecution is sometimes the concentration of too much power in the hands of different people, and the situation is exacerbated by the fact that it is often not formalized and regulated at workplace.

Organizations that support victims of mobbing in the organization have stated that for the abovementioned activities to be considered as mobbing must last a minimum of six months continuously and are not a one-time incident.

Mobbing activities have been divided into certain phases.

1. **Conflict** - The supervisor is the first to use mobbing, then is joined by colleagues who become part of a group abusing another person or group of people, or vice versa. In this phase, the conflict is not resolved correctly or not at all. The causes of the conflict can be different, from a bad atmosphere in the workplace, through a feeling of confusion, uncertainty and typical mobbing activities. It begins to undermine employee competences, slander, ridicule, and finally comes to alienation and reduced self-esteem. At the end of the first phase, the " attack line " is quite strongly marked by the mobber. The persecuted person feels defeated and cannot find support and help in the work environment. Self-esteem decreases, and 'further attempts to use reasonable arguments, and some people defend themselves by reacting with aggressive behavior to the psychological violence used against them. As a result of mobbing, the victim begins to feel worse, fear becomes an inseparable element of her life, before going to work she is overly nervous, restless, feels unnatural nervous tension. There are visible signals sent out by the body, which are signs of stress, neurosis, depression, anxiety, isolation, tiredness. The symptoms may also include: headache, stomachache, excessive sweating, , fear, chest pain, esophageal neurosis, loosing or gaining weight, drinking more alcohol and smoking more cigarettes to reduce the stress. After some time, alarm signals such as insomnia, problems with concentration, high blood pressure, vomiting accompany the victim repeat too often. This stops the individual from having a ‘normal’ in life. Often, the victim begins to abuse alcohol, sedatives or sleeping pills or reaches for other drugs.

2. **Stable mobbing** - The victim was marked in the group and became a 'scapegoat'. For a conflict to arise, all it takes is a different view of the matter, conflicting lines of action, a feeling of use, different views, cultures, religions, personalities, interpersonal, and intrapersonal experience.

3. **PTSD (Post Traumatic Stress Disorder)** - In this case, the situation is dramatically worse. A person affected by bullying can no longer function efficiently in a social and family professional environment. Awareness of the hopelessness of the situation in which the victim stays; the threat of unemployment, livelihood and lowering of living standards causes various somatic diseases. It can also cause uncontrolled outbursts of aggression or rage that are directed against superiors or colleagues.

For objective reasons, further employment of the employee is pointless. However, sometimes the mediator alongside with a manager try to transfer the victim to another position, try to convince the person to contact GP to get information how to be referred for the counseling.

The disease described by psychiatrists as posttraumatic stress disorder (PTSD) is compared to the condition of people who have undergone a concentration camp experience. Every tenth employee has suicidal thoughts at the advanced stage of mobbing, and every hundredth attempts suicide. Specialists from the European Union, after conducting research in Spain, estimate that every fifth suicide committed in this country was caused by psychological violence at the workplace.

Where we have people, we have a potential conflict. We need to be open about that, as only being prepare for any types of conflict beforehand, will let employers and also employees to be prepared to manage the situation with a positive outcome. As for the phenomenon of mobbing, a conflict arises in a particular individual, a group of people, where the possibility of resolving the conflict by agreement or mediation is not possible. A conflict that is not resolved on an ongoing basis affects the overall work and relationships prevailing in the organization. At present, when conflicts that are not controlled, there is a significant increase in costs arising in organizations due to staff rotation. It is estimated that in more than 65% of cases, the decrease in productivity and quality of work is caused by tensions in relations between employees, and not by a lack of qualifications or motivation to work. In contrast to the conflict, which is

managed wisely, it can be a constructive phenomenon, motivating further actions, positively influencing the development of an organizational unit, and often motivating parties to a conflict. Mobbing has one purpose. It is humiliation, stripping of dignity and eliminating the victim from her position. Why? Because the bully is a person who has unnaturally exaggerated self-esteem and ego. The person considers himself/herself as someone, who can literally do anything and has all the powers. Bully cannot accept criticism from colleagues and believes that the knowledge and skills will not be caught up by others, because no one can be as smart as this person. Often, mobber through activities such as psychological abuse over others, such as bullying, liveliness on colleagues, is really trying to hide his own imperfections. By humiliating other people, mobber tries to show a power, which she/he does not actually have.

The tormentor is constantly angry, cannot accept criticism, reacts with anger. No one can have a different opinion, and all manifestations of " insubordination " lead to intimidation and harassment of employees. Every employee is treated as a potential enemy. Mobber has no friends, usually is a lonely person who does not work out in private life and transfers all frustrations to a professional background. The boss expects acceptance from each of them individually, but despite the fact that the mobber seems to have his supporters, doesn't trust them anyway. This leads to a situation where workers stop trusting each other. Mobber believes that there is no friendship at work, and every employee should take care of themselves and work only on their own account. Teamwork has no right to exist, because all manifestations of the organization in the organization are immediately `` suppressed in the bud ". By this, mobber tries to mark the highest position, showing that people should not trust anyone, because the must be a control of people and messages of people who report to him/her at the workplace.

As a result, the atmosphere becomes very tense, envy and jealousy, employees have low self-esteem, become less efficient, and even those who tried not to participate in the conflict, 'break' and through this superior mobber regains a splendor and becomes the most important, what the mobber meant from the beginning.

Mobber knows no other way to show his great position except by bullying, humiliating and oppressing colleagues. Usually, employees do not respect their supervisor, they think that the person has no interpersonal skills, empathy and is a bad manager. But they are afraid to express real truth and scared not to lose their job. Mobber does not feel remorse and is convinced of the

rightness of what has been done. The person believes, that, whatever has been done, it has been done for the best interest of the company too.

Social causes of mobbing

Mobbing as a definition does not indicate the stimulus, to which intimidation, harassment or harassment of the employee / subordinate occurs. These actions often have no reason to occur. This is how the bully acts. There are certain groups of people who may be more vulnerable and be subject of bullying at work due to different reasons.

1. Social reasons - includes the threat of losing a job, losing a job, long-term unemployment, forcing employees to carry out orders, tasks incompatible with the labor code, with an employment contract, going beyond the employee's obligations, hiring employees under a mandate contract, a contract of the work despite the fact that the work performed has the features of a permanent job, where the employee should have an employment contract; part-time employment despite the fact that the employee works full-time, by hiring for a limited period of time the employee has no sense of security, stability or confidence, 0 hours contract.

Competences of the manager - it often happens that the supervisor is a person whose sense of value is greatly exaggerated. This can be especially seen outside of Poland. Team leaders, leaders, and supervisors who are Poles living and working in the UK, who speak a very little English, but speak enough to communicate with their line mangers, who are with the company from the beginning and went through a ladder of ‘promotion’, and perform their current function by 'presiding'. They have no education at the level at which newcomers have them, their English is often at a very basic level, because they command a group of Poles (production companies, greenhouses), where knowledge of a foreign language is not necessary, and on the other hand there is no possibility to learn due long working house, but firstly, they feel appreciated at work and unreplaceable which of course is not true. People who came here after Poland joined EU 2004-2005), often do not have the level of education that new commers (2011-2013) have. When a person with a higher education, with a fluent English joins a group of employees, a person to whom everyone is 'clinging', the supervisor begins to harass such people, and it can be clearly said that in this case, for some superiors, the harassment of an

employee is way of diverting attention from one's incompetence. Very common within Polish uneducated women who came to the UK between 2004-2006.

2. Ethnicity - The third group concerns the special social position of the victim of mobbing - usually a different skin color, different origin, different sexual orientation, different religion or political views are enough to become a potential victim. More often, people with disabilities, women in men's occupations or men working in a feminized environment may be persecuted, immigrants who can't speak English, Roma.

Favorable conditions for mobbing can be seen in those organizations where there is a strong hierarchy; police, army, universities, factories, warehouses, production lines. Lack of empowerment or collegiality in decision making can also be a factor conducive to the phenomenon of mobbing.

The causative factor creating favorable conditions for mobbing phenomena is a high level of unemployment. Low self-esteem, poverty, law education, a sense of hopelessness, a lack of opportunities to find a better and often any job causes that people agree to psychological coercion in the workplace. Certainly, management has an impact on this, because often do not notice the problem, or instead of helping victims of mobbing, directs all the accusations against the victim.

This further aggravates the problem. Both in Poland and abroad, ambitious people who has a self-esteem on a healthy level, are intelligent and assertive, they may be exposed to mobbing too. Usually, however, such people are able to defend themselves and, despite the fact that work is very important to them, they are not afraid to give up if they feel insecure at work at any level. Research also shows that mobbing often affects people who perform their duties diligently and for whom work is extremely important or this is their first job / a dream job too.

Social structures that are too rigid, are considered as a cause of mobbing; power is exercised through the use of force. This is particularly evident in the too rigid social structure, where the management method is highly hierarchical. Lack of order, incompetent management method, incompetent and inconsistent way of managing the organization is the foundation for the phenomenon of mobbing. Negative features occurring in the organization are issuing orders

that make no sense, over-burdening, short period of time to carry out orders, limiting employee competences, and underestimating employees' work. There is a tense atmosphere in the workplace, victims cannot get support from colleagues or superiors, the employee feels threatened, insecure, stress almost always accompanies him, feels abused, works under pressure.

Actions, that are repeated systematically, several times and for a longer period may be called mobbing. When it comes to situations in which freedom of speech, thought is constantly limited, there is interruption of expression, constant criticism, screaming, criticism not only of professional but also private life may have the features of mobbing. This also includes activities such as bullying by emails, telephone, letters, degrading gestures, treating employees as air, using activities that distort the employee's image, for example, spreading false information about him, ridicule, slander behind the person's back, suggesting diseases (including psychological) without any justification or evidence, making fun of a disability, mocking physical disability (disability), making fun of a way of moving, speaking, gestures to ridicule an employee, mocking political views, professed faith, personal views and life situation.

These activities also include outsourcing tasks that violate human dignity, which are incompatible with employee beliefs or values, questioning decisions made, origin, family, education, using obscene nicknames or those aimed at humiliating individuals, jokes to offend employee's sexual orientation for example through sexual suggestions and phrases. In general, these are all activities that have a negative impact on the health of the person affected by mobbing.

Types of mobbing

Mobbing causes endemic stress in almost every organization. The consequence of this is the loss of organizational correctness, which makes employees not to complete the tasks given properly and efficient. The work is becoming more and more frustrating. People in constant tension often strive for conflict with other people. Hostility may increase towards one person for a long period of time causing a mobbing situation. There is horizontal mobbing, where 'employee acts against colleague'. It is hostile action by a group of colleagues towards a person whose difference becomes the object of attacks (a woman among men, a man among women,

racial, religious or social separateness, homosexuality etc., ‘old’ employees towards new employee).

Sometimes the source of harassment is jealousy of someone who has something that others do not have, e.g. youth, education, wealth, beauty. The role of the manager is difficult in this type of mobbing, as too often the leader does not know how to behave, often does not take any steps, not wanting to be accused by mobbers of favoring a person harassed or terrorized by colleagues.

Another type of psychological harassment is a vertical mobbing. It occurs when the subordinate acts against the superior. The superior becomes harassed by the subordinates. Subordinates try to compromise their supervisor, for example to take his place.

The last type is sloping mobbing. Occurs in the workplace most often. The supervisor abuses a professional position. This type occurs when the supervisor is against a subordinate. The most common form. This phenomenon intensifies especially in times of recession, the situation on the labor market and unemployment causes that the employee agrees to everything, wanting to keep a place of employment. Often, it can also take place when the supervisor is afraid that a workplace will be taken by someone younger, more educated, with greater charisma and life energy or by a person who speaks the language better.

Help and conduct in the case of mobbing

The phenomenon of mobbing is a type of pathology that consists of many factors. Fighting it, opposing it, eliminating symptoms or mental harassment activities requires taking actions specified in legal regulations. Organizations in which the profit and loss statement of mobbing activities has not been carried out may condemn any attempts to combat this type of pathology in the organization.

Mobbing has excellent conditions for development where there are rigid, hierarchical, authoritarian power structures, and individuals concentrate excess power in their hands.

Some anti-mobbing activities in the workplace are undertaken by: - employer,
- works council,
- employee councils.

Those are:
- proceedings to prevent the occurrence of psychological violence in the workplace - proceedings in the event of a specific case of mobbing at the workplace.

Executives who are able to detect and eliminate all mobbing attempts in the bud, help to prevent and combat psychological violence in the workplace. Executives wishing to prevent mobbing in the workplace must create at the workplace:

- a clear and explicit range of competences,
- clear to all ways and ways of making decisions,
- information flow in the workplace,
- clear dependence system but without repressive system,
- constructive methods of conflict management (mediation), - establishing as fair rules for fair play between employees ".

In crisis situations, the selection of the best management system for an enterprise is determined by fair, objective and clear rules. If harassment and bullying occur, the management needs to diagnose how far it has gone. Anyone who manages the organization and detects the phenomenon of mobbing in the workplace must oppose it, because this is their legal duty.

It is very important to not remain indifferent to this type of behavior. A mediator (independent person) should be appointed to help eliminate and resolve the growing conflict. If mobbing is diagnosed and occurs in an advanced stage, the costs are even higher. Unfortunately, it often happens that the victim, the persecuted person, cannot get out of the situation by himself. Professional help is then needed, the victims often feel like there is no way out, unable to make any changes to the workplace, weak, vulnerable, hopeless.

People subjected to the phenomenon of mobbing often need a dedicated mental health support. They cannot act by themselves. Stress, fear, and feeling of powerlessness lead them to the frustration that reflects on their personal and professional life. The harassed individual should be able to get advice and help and inform the that the person is seeking support or advice.

Generally speaking, the phenomenon of mobbing is a relatively a new issue due to the open borders and migration. Counteracting this pathology is also not fully systematized and available to such an extent as, for example, counseling centers for people addicted to alcohol. Due to a language barrier, new environment, the victims feel isolated and hopeless.

In many countries around the world, specially trained staff is appointed, to develop optimal prevention methods to reduce the risk of pathologies in the workplace, including the phenomenon of mobbing or different types of harassment. Most professionals dealing with this issue are of the opinion that any intervention limiting the likelihood of any form of violence at work is also an anti-mobbing intervention. " The World Health Organization draws attention to certain types of activities that should combat the phenomenon of mobbing. Those are:

- primary prevention
- secondary prevention
- tertiary prevention

Primary prevention aims to reduce or completely eliminate any phenomena of aggression by creating such working conditions that can ensure a significant level of employee safety with a holistic approach. Therefore, these are all actions taken at the workplace that aim to reduce the chance of mobbing or harassment on a preventative stage.

Secondary prevention occurs when an employee knows how to cope, when finds himself in a mobbing situation, in the event of a conflict or aggressive behavior that is often unavoidable. Here, the skills to mitigate conflicts and negotiation skills are also pointed out. Certain procedures are being set up that allow managers to monitor or revise legal organization's regulations that should protect workers/staff/ employees from bullying.

Tertiary prevention are those activities that help employees who have already become victims of pathology in the organization. Their health deteriorated significantly, they suffer from depression and neurosis caused by mobbing in the workplace, they suffer from anxiety due to this type of abuse. This issue also concerns the creation of regulations, clear procedures allowing complaints by persons affected by mobbing.

□ □ □

Bullying and harassment in the UK is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010. You will find all information needed on https://www.gov.uk/workplace-bullying-and-harassment

Examples of bullying or harassing behaviour include:

- spreading malicious rumours
- unfair treatment
- picking on or regularly undermining someone
- denying someone's training or promotion opportunities

Bullying and harassment can happen:

- face-to-face
- by letter
- by email
- by phone

The law

Bullying itself is not against the law, but harassment is. This is when the unwanted behaviour is related to one of the following:

- age
- sex
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation

What employees should do if they're bullied or harassed

Employees should see if they can sort out the problem informally first. If they cannot, they should talk to their:

- manager
- human resources (HR) department
- trade union representative

If this does not work, they can make a formal complaint using their employer's grievance procedure. If this does not work and they're still being harassed, they can take legal action at an employment tribunal.

They could also call the Acas (Advisory, Conciliation and Arbitration Service) helpline for advice:

Acas helpline

Telephone: 0300 123 1100 Textphone: 18001 0300 123 1100 Monday to Friday, 8am to 6pm

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www.hardlife.webpark.pl

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A report examining that Genocide can happen in Donald Trump's America

Introduction

''Ten Stages of Genocide'' is a way to explain how society can engage in genocide and that it cannot be committed by a small group or an individual. Therefore, it takes cooperation of a large number of people and the state which starts by prejudice which continues to grow.
Dr. Gregory Stanton leads a non-profit organisation ''Genocide Watch'' which is dedicated to fighting genocide. In 1996 Stanton published ''Eight Stages of Genocide'' which was revised into ''Ten Stages of Genocide'' in 2016.

The 10 stages of Genocide are predictable and at each stage there can be preventative measures put in place in order to stop it. The later stages have to be preceded by the earlier stages.

Parallels lie in racism, dehumanising and discriminative language, lack of respect towards other nations, authoritarianism, racism including myths around people's ethnicity.

It's not wrong to compare Donald Trump's Modern America to the Holocaust.

Donald Trump, America's current President has been chosen as a comparison to Adolf Hitler because both leaders show staggering similarities in their personalities and actions. The Holocaust and the Genocide seek to draw on historical power to advance theirs not completely unrelated agendas. This report presents similarities what Nazi Germany and Adolf Hitler did to the Jews, with Donald Trump and his Modern America.

Adolf Hitler rose to power through his white supremacist views that Donald Trump also was not afraid to expose in his Presidential campaign. Hitler was responsible for the genocide of at least 5.5million Jews and in order to illustrate that genocide can happen in today's America,

this report will draw onto the similarities between Donald Trump and Adolf Hitler, presenting facts which are linked to the genocidal stages

10 Stages of Genocide (2016) and how the actions of Donald Trump and Adolf Hitler fit into them.

1. Classification:

All cultures have categories in order to distinguish individuals; this is done by ethnicity, race, religion or nationality. Those things make us who we are and create our identity. Genocide is most likely to happen in societies which are the most divided. The main way to prevent this stage of genocide is to develop equal opportunities for people to live and work together from different ethnic backgrounds. This in turn makes the society more understanding and develops greater knowledge and tolerance.

During his political campaign Donald Trump has classified Mexicans and ultimately labelled them by saying "When Mexico sends its people, they're not sending their best. They're not sending you. They're sending people that have lots of problems, and they're bringing those problems. ... They're bringing drugs. They're bringing crime. They're rapists'' (Donald Trump, June 16th, 2015, Washington Post). This statement classifies Mexicans as rapists and begins to divide the opinions of the society. In effect, the societal views are shaped as hateful towards the Mexican population.

Trump lacks knowledge and therefore cannot educate the society on tolerance. This is supported by a study published conducted in 2016, tested the claim that immigrants are responsible for higher level of drug related crime in the United States and found no links between Mexicans or illegal Mexicans and drug related crime (Green, 2016)

Secondly, expressing extreme nationalism through Trump's campaign slogan ''Make America Great Again'' is only one step closer to a possible genocide. The slogan is a paraphrase of Hitler's promise to restore the greatness of Germany. Adolf Hitler promised to restore Germany

back to a great nation through nationalism and extolling the great past of the country which is very similar to ultranationalist views of Trump.

2. Symbolization:

We distinguish people by various things, we give names, symbols to the classification of race, religion, ethnicity or nationality such as colours and dress. As a society we name people 'Jews' or 'Gypsies'. The classification and symbolisation of people will not necessarily result in genocide. It is only when those lead to the stage of dehumanisation and are combined with hatred and symbols forced upon groups such as the yellow star for Jews under the Nazi power. In order to combat this stage, we can legally forbid the use of certain symbols such as the swastika and hate speech. The issue, however, arises when the society does not support and follow those rules.

The use of symbols is nothing new to the President of United States. On the 28th of August 2019, Donald Trump has tweeted a video which some of his followers thought to be an official announcement of his campaign. The video ends with the new patriotic logo ; a red, white and blue lion.

Despite the logo not classifying any particular group, it symbolises nationality due to being nearly identical to a logo of a white supremacist group VDARE who have been suspended for hate speech on Dutch Twitter.

This is very similar to Adolf Hitler's Nazi Germany Swastika which promoted the supremacy of 'pure blood' Germans.

Both of their ideas symbolise white power and the thought that white people are superior to other races.

3. Discrimination:

Discrimination happens when a powerful group uses power to deny the rights of another group. The group who is discriminated might be denied their rights and in some cases citizenship. The Nuremberg Laws of 1935 Nazi Germany have enabled the officials to strip Jews of German citizenship. A preventive method for discrimination is that all groups in society are given the same rights and discrimination based on race, ethnicity, religion or nationality should be illegal.

On November 29, 2016, @RealDonaldTRump tweeted ‘’Nobody should be allowed to burn the American flag-if they do, there must be consequences-perhaps loss of citizenship or year in jail!’

The Universal Declaration of Human Rights is a response to the Holocaust and declares that everyone has the right to a nationality. The stripping of US citizens of their passports, citizenship and rights goes strongly against Human Rights and therefore, proposes a threat that Genocide is in the US today.

In 1967, the Supreme Court in America declared that under the 14th amendment, a U.S citizen can only lose their citizenship if they willingly surrender it. This only argues in favour of him not understanding the value of citizenship and going both against the constitution and Human Rights.

In 1938 Germany, the passports of Jews were declared invalid and taken away. Taking away a person’s passport and their citizenship is a precursor to genocide. This is what is beginning to happen in the US today to Hispanic citizens along the Mexico border. When an individual is denied their citizenship, it is a clear indication that they will no longer have the rights of a citizen.

Jamie Diaz an attorney in Brownsville told *The Washington Post* that Hispanic US citizens are not allowed to renew their passports and this is reportedly happening to thousands of Latinos.

Jamie Diaz said ‘’ I’ve had probably 20 people who have been sent to the detention centre-US citizens’’ . The American government believes that their citizenships are fraudulent and issuing letter from the State Department stating that it does not believe they are citizens (Harper’s Bazaar, 2018).

The Washington Post (2018) has previously reported that ICE officials are taking citizens’ passports away by coming to their homes and detaining them for speaking Spanish. This is a very similar approach to the Nazi regime, where Jews were taken out of their homes simply for being Jewish and put into concentration camps.

4. Dehumanization:

When one group treats another group as second class citizens, we can talk about dehumanisation. The members of the 'second class' group will often be compared to animals, diseases or parasites. It is easier to control a group when they are thought of less than human. Hate propaganda will be distributed at this stage in order to make victims seem like villains. In order to fight against dehumanisation, hate crime and hate propaganda should be punished.

Donald Trump uses twitter as a tool of dehumanisation and often demonises his opponents and talks about the country being 'infested' with dangerous aliens of colour. A review published by New York Time (January 2016) found that 1 in 8 posts by Donald Trump was an insult of some kind. New York Times reported that as of January 2019 Trump has insulted 551 people, including places, things and citizens; this ranges from politicians, journalists to entire countries. Trump is known to call Mexicans rapists, refer to countries as 'shitholes' and has fantasised about jailing Hilary Clinton. Similar to Trump's actions, Adolf Hitler has demonised his political opponents with the use of radios by calling them parasites, criminals and leftist scum (Nuborne, 2019)

5. Organization:

In each case genocide is organised either by the state or by terrorism groups. Plans are made for genocidal killings and special militias are trained and armed. In order to combat this stage, the United Nations should create commissions in order to investigate governments involved in massacres. Embargoes should also be issued on governments and individuals which were involved in any violations.

In the most recent events of 2020 Qassem Soleimani, a top Iranian military commander was killed in a U.S airstrike in Baghdad and Donald Trump has taken his views of organisation to twitter.

On January 4, 2020 @RealDonaldTrump tweeted ''targeted 52 Iranian sites (representing 52 American hostages taken by Iran many years ago) some at a very high level & important to Iran & Iranian culture, and those targets, and Iran itself, WILL BE HIT VERY FAST AND VERY HARD. The USA wants no more threats''.

This can be seen as a threat to commit war crimes by already organising the military attacks. It is only a matter of time Iran will hit back at the United States. Elizabeth Warren, a presidential candidate has expressed her view on the tweet and said that in a democracy Donald Trump does not get to start a war with Iran and that American people do not want it.

6. Polarization:

The propaganda which broadcasts prejudice and hate is done by hate groups, and extremists drive groups apart. Their laws might forbid social interaction between groups or marriage. Terrorism targets and intimidates individuals into silence. Moderate leaders are usually the ones to be firstly assassinated due to being the ones best able to prevent genocide. The prevention of this step may include extra protection for moderate leaders. The assets of extremists may be seized, and a travel ban might be imposed on them.

Adolf Hitler and Donald Trump both found a method of communication to the mass. By 1936, the Nazi party narratives and propaganda dominated the German culture. The Nazi Party gave out radios with only a single channel which was tuned to Adolf Hitler's voice. Similar to this, Trump has found his online equivalent on Twitter. His tweets are often tweeted between midnight and dawn and are the technological copy of Hitler's radios in the 21st century. Trump's twitter account reaches between 30-40% of his political base and remains unfiltered. His account remains a freeway to threats, xenophobia, security scares, religious bigotry and exploitation of economy.

The strong link to polarisation can be seen on November 29, 2017 when Trump retweeted three unverified anti-Muslim videos from Britain First which is a far-right nationalist group with a history of misleading videos and propaganda (Washington Post, 2017). The video that was re-tweeted by Donald Trump showed an assault by a Muslim immigrant however, the perpetrator in the video was neither a Muslim nor an immigrant. This video was primarily tweeted by Jayda Fransen, the deputy leader of Britain First who in 2016 was convicted of religiously aggravated harassment in the United Kingdom. Donald Trump, therefore, is promoting content form an extremist group without precedent, nor real evidence among the society in the US as well as the entire world. This only argues in favour of genocide as a possible outcome in the US today

and can be classed as propaganda in order to turn his voters against immigrants especially Muslim (New York Times, November 2017)

Tweets and statements by Donald Trump including his immigration policy and dealing with black-led demonstrations are comparable to Hitler's glorying of Aryans and demonising Jews, blaming them for the bad in the German Society leading to dehumanisation of certain groups. Nuborne (2019) talks about how Trump uses ''racially tinged messages calculated to divide whites from people of colour''.

Adolf Hitler started to delegitimise the mainstream press by calling it Lügenpresse which directly translates to 'lying press'. It could be argued that Trump's 'Fake News' has derived from Hitler's Lügenpresse and his speeches. Trump's idea of the press is 'lying press' that publishes 'fake news'. Throughout his time, Hitler attacked his opponents who he thought spread false allegations in order to undermine his position. Similarly, Donald Trump attacks the 'elite' especially in regard to any information and news which proposes any links to Kremlin (Nuborne, 2019).

Donald Trump's assault on the media almost mirrors Adolf Hitler's idea. Nuborne (2019) highlights that Trump is very hostile to news reporters and refused to fly the flag at hal-mast after the murder of five journalists in Annapolis in June 2018. The assault on truth only intensifies when both Hitler and Trump deride the scientific experts and academics. Both of their goals are to turn any scientific idea into a populist subject and manipulate the public. Trump has previously said that the public opinion defines what is true and what is false. In a world where supporters spread and embrace Trump's 'alternative facts' he will succeed in the same way as Hitler. Once Hitler, delegitimised the media by attacking its integrity, he constructed his own media in order to reinforce his ideas and enhance power. Donald Trump is following the same path, attacking the media and co-opting the Ruper Murdoch owned Fox Broadcasting company which has previously been referred to as a 'Trump Broadcasting Network'.

7. Preparation:

The perpetrator group plans the final solution for the target group. They will often use euphemisms in order to refer to their end goal such as ‘’ethnic cleansing’’ or ‘’counter-terrorism’’. Armies will be built; weapons will be bought, and population will be indoctrinated in order to fear the victim group. A popular claim in this step is ‘’If we don’t kill them, they will kill us’’. A preventative measure will include embargo on arms and building commissions. The prevention should include the prosecution of conspiracy under Article 3 of the Genocide Convention.

8. Persecution:

Victims are separated based on their religious or ethnic identity and in a state sponsored genocide they may be forced to wear identifying symbols. Often the victims properly will be confiscated and in many cases those individuals will be segregated into ghettos, deported to concentration camps or starved.Now the genocide begins. In order to combat this stage, the United Nations should organise humanitarian aid, and prepare of armed international intervention.

9. Extermination:

This stage is called ‘extermination’ due to the perpetrators not believing that their victims are human just like the dehumanisation stage mentions. When extermination is in full force it becomes a mass killing and legally it is known as ‘genocide’. When genocide is sponsored by the government, the armed forces will often work with private armies in order to kill. Only a rapid intervention can stop genocide. Safe areas will need to be established with international armed protection. The United Nations will send troops to genocidal areas when the Security Council makes such an order. The UN might decide to go through NATO instead.

10. Denial:

The final stage of genocide is denial and always follows it. The perpetrators will burn the bodies, cover up evidence and dig up the mass graves. They will deny that any crime was committed and blame the victim. They block the investigations and leaders of genocide will continue their denial until a tribunal is established in order to bring them to trial. The best way

of punishment is one by national courts or international tribunals, this may not prevent genocide however, some mass murderers will be trailed and brought to justice.

Conclusion

As a summary of this report, first, no one can emphasize that we are dealing with any type of genocidal regime in the United States at the moment. This report only answers a hypothetical question if the genocide *can* happen in Donald Trump's America.

Report presents similarities between Donald Trump's and Adolf Hitler regime, personality, actions and strategies which might lead to a genocide in the future especially in the light of new circumstances with Iran.

It is also worth to state, that The United Nations Human Rights Council has on several occasions emphasized the important role that education, including human rights education, can play in genocide prevention, and has encouraged Member States to promote educational programmes and projects that contribute to the prevention of genocide. (United Nations, 2010; 2013; 2015).

The General Assembly has also urged Member States to develop educational programmes that will inculcate future generations with the lessons of the Holocaust in order to help prevent future genocides (Security Council,2013) The Security Council has emphasized the particular importance of all forms of education in order to prevent the commission of future genocides.

People can no longer turn a blind eye to the "genocide" of Indigenous peoples in the country and education is very needed in modern times around humanity, genocide, Holocaust to prevent atrocity crimes. The scope of the epidemic of violence that has claimed the lives of thousands of indigenous people must be dealt quickly to avoid further actions which might lead to genocide.

When the society learns from what movements led to crimes against humanity such as the Holocaust, it is easier to identify early warning signs and place measures in position in order to

prevent mass killings happening at an early stage. The risk of violence will be increased when the society and leaders start to justify or deny such crimes. Teaching about crimes such as the Holocaust is a method of ensuring that these crimes and victims are not forgotten.

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