

THE RIGHT TO HAPPINESS BETWEEN DESIRE AND VULNERABLE PRESENT

*Denis-Roxana GAVRILĂ**

Abstract

Is happiness a desideratum, a utopia or can it be claimed even today, in contemporary society? Does humanity have sufficient resources to guarantee this right or some changes are needed at the individual level or society? Can ombudsman institutions militate for the protection of this right? Can the human being achieve happiness alone, through the means at his disposal? Is it enough just to stipulate the right to happiness in international documents to guarantee it? Are there other means by which the individual can benefit from this right? All these questions will receive answers in the article below.

Key Words: *the right to happiness, human rights, religious freedom, human rights institutions, ombudsman.*

JEL Classification: [K33, K38, K40]

1. Introduction

From the beginning of his existence, the human being has sought happiness.

The concept of happiness has preoccupied many researchers, but the idea is much older.

Thus, in a Europe based on Judeo-Christian values, influenced by the Holy Scriptures, a book that was the foundation of the codes of laws, the American Constitution, human rights, we find out that since the Garden of Eden there was a tree called the Tree of Life, and the first human beings lived happily in harmony with God and nature. The violation of the divine commandment by Adam and Eve was due to the desire to be like God. Man did not yet have the notion of evil, sin, because he had not tasted it before.

Throughout his fall, man has sought and continues to look for happiness, life, and immortality.

2. What is happiness?

The question that arises even today, in the contemporary world, is whether happiness is a desideratum, a utopia or can it be claimed in contemporary society?

In Romanian, we find the definition of happiness in the explanatory dictionary of the Romanian language, which defines happiness as "the state of intense and full satisfaction".

3. Philosophical and historical approach

* PhD Candidate, NUPSPA FPA, Bucharest, Romania.

Numerous books and articles about happiness have been written over time, which demonstrates the continuing concern for this topic, the longing of the human being.

Many psychologists, scientists and writers have approached happiness from several perspectives. The American professor Martin Seligman, a pioneer of the science of happiness, described happiness as a compound of three elements, indispensable to the human being (Seligman 2007).

Thus, these are pleasure, integration and meaning. Pleasure is determined by the positive feelings that man has, integration is the ability of man to interact with those around him. The last element, significance, represents the power of man to give meaning and value to his actions.

Another psychologist, Sonja Lyubomirsky, an American professor in the Department of Psychology at the University of California and author of "The How of Happiness: A Scientific Approach to Getting the Life You Want", explained percentage happiness. (Lyubomirsky 2013)

Thus, it is composed of 50% of our genes, 10% is determined by the circumstances of life and 40% depends on our own actions.

The theme of happiness, or the right to happiness, marked famous philosophers from various parts of the world, such as Aristotle, Socrates, Plato, Confucius or Buddha.

Among the Greek philosophers of antiquity, masters of oratorical discourse, Plato triumphed in describing the concept of happiness, which from his point of view, consisted of 5 parts:

1. Make good decisions.
2. To have good senses and bodily health.
3. To be successful in everything that man undertakes.
4. To have a good reputation among people.
5. To have goods useful for life. (Mitoi 2017)

In the Middle Ages, the issue of happiness, approached by writers, philosophers, poets and artists of the time, was influenced by the Church.

Thus, St. Augustine, in his precious "Confessions" that have come down to us, presents God as a main source of happiness, the concept itself, as well as our need for happiness, are explained by the author in terms of man's need for God. (Saint Augustine 1991)

With the Renaissance, the approach to the discussion of happiness shifted from the sphere of biblical influence to that of humanism, which approaches happiness from a hedonistic perspective. This approach will affect man's relationship with the transcendent, and therefore the transcendent nature of happiness.

The transcendent approach to happiness will also be reflected in the writings of Martin Luther and Jean Calvin, with the advent of the Reformation. (Calvin 2001)

In the seventeenth and eighteenth centuries, the theme of happiness will be approached from a moral and ethical point of view, an influence that is also due to the emergence and development of a new class, the bourgeoisie and the development of science.

With the dawn of the nineteenth century, we are witnessing the emergence of empirical thinking, an approach that is felt in John Stuart Mill's approach to happiness and morality, as well as his disciple, William James, who will be the initiator of scientific psychology. (Manicas, 1963)

4. The theological approach to happiness

But there is also a religious approach to happiness.

Thus, the Holy Scriptures, the Bible, in the psalms of David approach happiness, as living a life pleasing to God, such as knowing the Lord and His commandments, an attitude that will lead to material stability and a harmonious family life. A happy life is the balance between God, work and family, the key or secret of the Bible to happiness (Ps. 128:1-5).

Holy Scripture is a promoter of the defense of human rights and freedoms, since man, the corollary of creation was created in the image and likeness of God (Genesis 1:26).

Even more, he endowed him with dignity and freedom, giving him control over everything that moves on the surface of the earth and in the depths of the waters. Other passages in Scripture that lead to the idea of human dignity are found in the book of Leviticus (Leviticus 24:22), where God commands respect and love for both stranger and native. The happiness of the man with the fear of God is also emphasized in the Book of the Prophet Micah in three simple commandments about mercy, justice, humility with God (Micas 6:8). But the corollary of happiness is found in the words and attitude of our Savior, Jesus Christ toward people (Matthew 22:37). The great Romanian philosopher Nicolae Steinhardt, in his famous Journal of Happiness, wrote that "Everyone has the right to happiness, but no one has the right to base it on the misfortune of another, on the mockery or injustice of another. Happiness must be invented by everyone on their own, by original means, hence the reprehensible nature of crime, theft, adultery, deception, denunciation; in all this happiness is obtained from another, it is taken. Crime is parasitic. (Steinhardt, 2016)

5. The legal approach to happiness

According to the author of the book "Happiness and Law", a correct understanding of law and duties requires an understanding of human happiness (Bronsteen, 2014).

People write laws to make it easy for them to live together, so to be happy. The laws stop us from harming each other, so they are meant to contribute to people's happiness. Many lawyers have analyzed the issue of happiness and, in this sense, the question arose whether they can find happiness.

Regarding the legal approach, happiness appears in the Constitution of several states.

The US Declaration of Independence, adopted on July 4, 1776, addresses happiness for the first time, as an inalienable human right. The declaration represents a first normative act with constitutional value.

UN General Assembly by Resolution no. 66/281 / 12.07.2012 proclaimed March 20 as the "International Day of Happiness".

According to Professor Irina Moroianu Zlătescu, the right to happiness is considered a fundamental right of some states, while other states interpret it in a narrower form, as "the right to seek happiness" (Eric Weiner, 2009), in both situations, the ultimate goal being the happiness of the citizen (Moroianu Zlătescu, 2015).

In the opinion of another author, Elena Claudia Marinică, „the right to happiness” „promotes the idea of an additional fundamental correlative subjective right of humans resulting in a central goal of states, bearing in mind that the moral legitimacy of a state is based on righteous justice, as an obligation undertaken in favor of the citizen and its well-being” (Marinică, 2017).

Since 2012, at the request of the UN, independent reports have been prepared, entitled Annual World Happiness Reports. They differ in terms of time, content and geographical area. So, The United Nations, through the UN Sustainable Development Network, has developed and released, these annual reports (Moroianu Zlătescu & Marinică, 2020).

In terms of global happiness, in 2018, a report entitled "Global Happiness Policy Report" was launched for the first time, which seeks to identify best practices at national and local level for the pursuit and achievement of happiness and well-being (According to World Happiness Report 2021).

According to the ranking in the World Happiness Report 2021, Romania ranks 46th out of a number of 149 states, accumulating a number of 6140 points. In the first 7 places are Finland, Denmark, Switzerland, Iceland, the Netherlands, Norway, Sweden.

Regarding the World Happiness Report 2021, this report focuses on the effects of COVID-19 and how people around the world have coped.

The objective of the report was focused in two directions, namely the effects of COVID-19 on the structure and quality of life of people and, secondly, to describe and assess how governments around the world have dealt with the pandemic.

This report is trying to explain why some countries have taken better measures than others.¹

¹ Ranking of World Happiness 2021, <https://brandgenetics.com/speed-summary-world-happiness-report-2021/>, viewed on 21 February 2021.

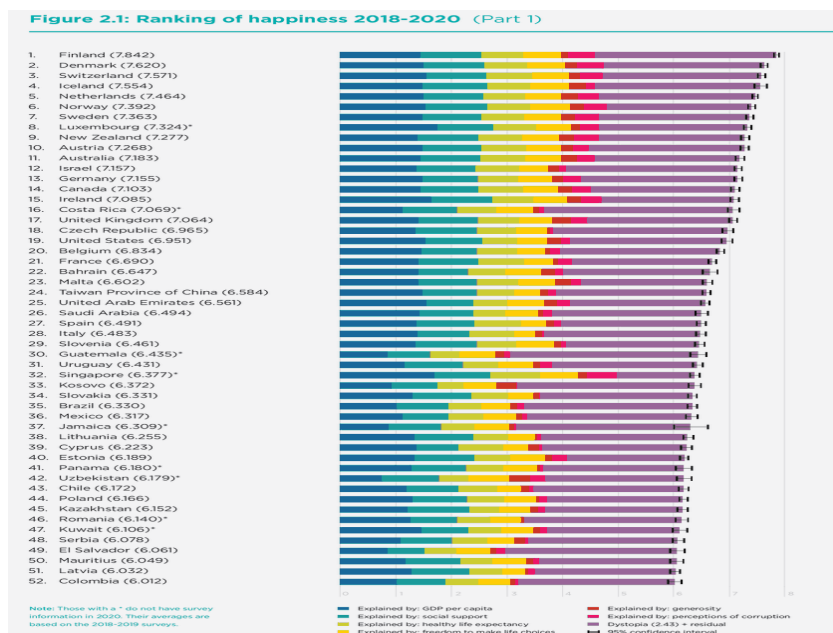


Figure 1²

One of the states that is not part of the top of the richest on the planet, the state of Bhutan stipulated in its own Constitution, at art. 9, the pursuit of happiness. In order to guarantee happiness, a Ministry of Happiness was created.

The country is characterized by a low level of crime, the killing of animals is prohibited, so people are vegetarians, no chemicals are imported, and crops in the area are not affected by harmful substances, forests are protected and life in general is calm.

In a word, people are satisfied with the lifestyle, contentment that leads to happiness.

But not only Bhutan is among the states that have named ministries of happiness, but also Ecuador, the United Arab Emirates and Venezuela. There are also sub-national governments, which make consistent efforts to design public policies to give their citizens happier lives.

On the other hand, it is important to mention that it was created in Copenhagen, an Institute for Happiness Research and the founder is the Danish Meik Wiking. He works with people around the world to see what influences life satisfaction. The Happiness Research Institute is an independent think tank exploring why some societies are happier than others (According to Institute for Happiness Research 2021).

² Brand Genetics, Speed Summary: World Happiness Report 2021, <https://brandgenetics.com/speed-summary-world-happiness-report-2021/>, viewed 01.05.2021.

At the national level, the issue of happiness caught the attention of educational institutions and the protection of human rights, so that, since 2012, annual conferences have been organized with the theme "Right to Happiness", conferences organized in partnership by the International Institute for Human Rights and The Faculty of Law of "Dimitrie Cantemir" University of Bucharest, which was joined by the Romanian Institute for Human Rights, the Association for the United Nations in Romania and other institutions (Moroianu Zlătescu 2016).

Through these conferences, specialists in constitutional law have shown that the right to happiness is a fundamental human right that has a constitutional nature.

The chase of the late twentieth and early twenty-first centuries, after a more prosperous life, has led, countless times, to a tiring, stressful and hopeless lifestyle.

And the great Romanian writer, Ioan Slavici, wrote in the beginning of his famous book "Moara cu noroc" about happiness "Let man be satisfied with his poverty, because, if it is, not the wealth, but the peace of your hut makes you happy", highlighting the tragedy that was to be revealed to the reader. (Slavici, 2009)

Everybody dreams of happiness, of a fulfilled life, because it is in human nature to long for it, especially when we live in open societies that respect human rights.

6. The People's Advocate, an institution for the protection of human rights

Even if they are not expressly stipulated in national constitutions, the right to happiness, the rights and freedoms of the individual are of concern to national institutions for the protection of human rights.

With regard to the right to happiness, there was an initiative for it to be included in the Charter of Fundamental Rights of the European Union.

The Ombudsman or People's Advocate in Romania, has the role of defender of people's rights in their relations with public authorities. So, through its public and social role of finding the truth, it defends the justice and freedom of the person, and the purpose of justice is to promote human dignity and social peace.

The defense of human rights, of citizens, leads to the idea of happiness, because only in a harmonious society, where the rights and freedoms of the individual are respected and the authorities are responsible, can man say that he is happy.

According to the Law on the organization and functioning of the People's Advocate, no. 35/1997, republished, the institution is organized and operates in Romania with the role of defending the rights and freedoms of individuals in their relations with public administration authorities, capitalizing on the tradition and experience of the classic Western European Ombudsman. It was named by the legislator, a national institution for the promotion and protection of human rights, due to its international importance among human rights protection institutions, in the sense established by the United Nations General Assembly Resolution (UN) no. 48/134 of December 20, 1993, by which the Paris Principles were adopted (Law

no. 35/1997, on the organization and functioning of the People's Advocate Institution)

The national ombudsman has an obligation to ensure that the rights and freedoms of citizens are respected, militating in this regard.

Even if the right to happiness does not appear in the Romanian Constitution, the other fundamental rights and freedoms are also expressly provided, they represent factors that can contribute to the observance of the idea of happiness.

Conclusions

Approaches to happiness are diverse, but they all lead to one result. From the historical, philosophical, theological perspective, happiness can be achieved in today's society, if the equation between man, God, authority is respected.

Otherwise, regardless of our efforts, we will not be able to achieve this goal, because in the absence of these three elements of the equation, nothing can be replaced by what was created by the Creator from the beginning.

From a legal perspective, the observance and proclamation of human rights and, implicitly, of the right to happiness cannot be achieved only through a conventional legal system. In order to apply the legal norms, it is necessary to have a spiritual, moral conviction of the citizens, without fear of sanctions.

Through this article I have tried to show that the approach to happiness is a multidisciplinary concern, whether it is theological, psychological, philosophical or legal.

At this moment, in the Romanian Constitution there is not stipulated the right to happiness, but there is a concern for people's rights and freedoms, more accentuated at the level of human rights protection institutions.

Public institutions, as Ombudsman have a very important role to play in society, signaling to the authorities, in the sense of respecting human rights, by ex officio complaints, inquiries, annual reports, special reports, institution-specific means of intervention, being able to contribute, as a mediator, to the development, education of the society in which we live and of its happiness. The ombudsman's reactions can stop abuse and restore dignity of the people.

The People's Advocate has the duty to contribute, more to the education and awareness of the society in which we live, as it operates on several levels, with all the problems that man faces, as an individual, in a society, in constant turmoil, but still in pursuit of happiness.

But the impact of the People's Advocate institution will be even greater, when the state will assume through its policies the creation of material and spiritual conditions that will help the citizens to be happy.

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