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ROMANIA TODAY: POLITICS, LAW AND ADMINISTRATION

Aurel PIȚURCĂ, Andra BREZNICEANU

Quality assurance – Major requirement of the Romanian higher education

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Abstract: *In the study conducted, starting from the changes and transformations that took place in social, economic, spiritual and political Romanian society after 1990, we intend to approach the problem of ensuring the education in Romanian higher education. To demonstrate the need and desirability of this process, we analyzed the factors which by their action required of the educational quality assurance. Also, we had to acts which have set up quality assurance, stages its accomplishments, the institutions called upon to put into practice.*

Keywords: *national minorities, inter-ethnic relations, education system, confessional education, Romanianization, Hungarianization.*

The quality of Romanian education, especially the higher education management can not be understood only in close touch with the changes and transformations that took place in post-revolutionary Romania.

Following this event the entire Romanian society has undergone a major interest and reforming, restructuring and social renewal. He was normal and necessary because it made the transition from a closed social system, anti-democratic, the other newly opened development system based on new principles and values, quite opposite the other.

- The need to depoliticize and non ideology education. Education promoted by the communist system was strongly implanted in communist politics and ideology, is used as an effective tool in counterpower spiritual and political indoctrination and subordination of society and its members. In a democratic society that was to be achieved, such a teaching does not take place, conflicts with its new principles and values, the expected social ideal;
- Transformations suffered by the social, political, cultural, translation to a market economy require new specialists and specializations, the old system was lacking in here;
- Restoring the social and political democracy also requires the Romanian education reform, which would provide a minimum of socio-political knowledge that will allow citizens to know and understand the new political

phenomena and to ensure their conscious, active and responsible participation to the new politics;

- The emergence and expansion of private education, especially its superior form as an alternative to the public. This imposes an ordering, selection, quality assessment of minimum conditions which were observed in all situations;
- Connecting the Romanian education system at European and international level, a process that will be even more a necessity after January 2007, when Romania joined the European Union.

All these factors claimed Romanian education reform and restructuring of all its views, especially of its quality assurance with a high accent of the superior one. This required the creation of an institution, authority to conduct quality assessment process, which to be independent from the ministry or another institution and to have a European recognition. Qualitative assessment of higher education needs to be multidimensional, to be achieved in stages - draft permit and accreditation function, to be based on criteria, standards, minimum indicators for performance and reference. In this context, accreditation of academic and institutional studies as the final step was to take an important place in quality assurance. This was the spring that prompted us to choose this theme. To this has been added the experience as an expert appraiser and member of the Committee of Social and Political Sciences.

Methodology

In compiling this article we used as information sources from Romanian and foreign literature. To highlight some papers, articles and studies used: Antonescu L. "University Management" Polirom, Bucharest 2000; Atanasiu.GM "international management and quality assurance of higher education", Economic Publishing House, Bucharest 2005; Bratianu.C "Guide to Quality in Higher Education," University Publishing House, Bucharest 2004; Charle.C, Verger.I, "History of Universities" (translation), European Institute, Iasi 2009; Dragulescu.N "Standards for evaluating the quality of higher education in Romania" UPB, Bucharest, 2003; Mili Caesar, "Designing and implementing a quality assurance system of higher education economy" (doctoral dissertation), Bucharest, 2005.

I was especially looking to the law 88/1993, which lays the foundation of the quality assurance process in the Romanian higher education institution and establish the National Council for Academic Evaluation and Accreditation (CNEAA). An important place in the legislative information system for the quality of Romanian education was the OUG 75/2005, and subsequently adopted legislation. This ordinance establishes the current institution for evaluation and accreditation of quality assurance of higher education in Romanian, Romanian Agency for Higher Education Quality Assurance (ARACIS).

In our study we used the statistical comparison method, both the synchronic and diachronic. It was meant to highlight the evolution of standards, criteria and indicators for assessing the old authority CNEAA to the ARACIS today. Our experience as an expert appraiser and member of the permanently committee ARACIS of Social and Political Sciences, was a major support in this endeavor.

Debates

3.1 One of the issues debated in academic circles live is the quality of university education. The quality of educational interest to all participants: students, parents, government, society, who are its beneficiaries, but also faculty and academic staff, i.e. those who create, provide and ensure the quality of education.

Introduced in the sixth decade of the 20th century in the U.S., the concept of quality in education has expanded. The term "quality" refers to "performance that an organization providing servants can achieve and the contribution arising from all activities directly or indirectly related to the conception and development service" [1]. The importance of quality education process, made that, between 1994-1995, the European Commission to initiate and fund a pilot project involving 47 higher education institutions in 17 Member States, with the objective of experimentation and the development Evaluation of a model unit for higher education. Based upon experience gained from the ap

plication of that pilot project in 1998, the European Council issued a recommendation to Member States to promote higher education in national systems of comparable quality assurance systems to facilitate sharing and recognition of studies among member countries. Bologna Declaration, in turn, imposed a new framework for quality assurance in higher education. Education Ministers of the European Higher Education Area have been engaged in meetings in Prague 2001, Berlin 2003, Bergen 2005, to support implementation of quality assurance at institutional, national and European level. In countries like England, Germany, France, Denmark, Norway, Sweden, they have created quality assurance systems of higher education. In these societies, the application of quality assurance at national and European level is already a reality. Process with European valences, ensuring the quality concerned the Romanian authorities and institutions as well in the field, in principle, his ministry and university centers.

3.2 A first step in the Romanian higher education quality assurance and accreditation in higher education institutions, and recognition of diplomas, was the issuance of Law 88/1993.

According to article 3 of the institutions of higher accreditation process includes two phases: a) the interim operating authorization granted the right to organize and conduct the admission process of education, b) the accreditation granted the right to hold the license exam, diploma or After the event,

graduation and the issuing of diplomas recognized by the Ministry of National Education [2].

For the first time in a legislative act references were made about ensuring the quality of education that would be done periodically and take into consideration the evaluation of academic specialization and institutional structures.

According to article 4 of the same law for the assessment and accreditation of higher education institutions to provide quality educational process, is established National Council for Academic Evaluation and Accreditation, under parliamentary control. Council assessment committee has territorial domains, profiles, and / or specialization." [3]

At 18, "Chapter II" was defined, based on the situation and the reality of the Romanian higher education, academic assessment criteria and standards and accreditation. For the accreditation of the institution, had to have every faculty, colleges and specializations, at least 50% of the total full-time faculty positions or post basic reserved tenured in higher education according to the law and of these 20% is teachers and university lecturers, that is under current standards. Under current standards for accreditation were still other indicators such be using at least 25% to 30% of these standards, the revenue for its own infrastructure, or 50% of the area of education, - 70% - to present be owned by the institution subject to accreditation.

Article 29 of Law 88/1993 - so clearly stipulate that "subsidiaries faculty institutions, colleges and

specializations are considered separate units". They are subject to separate academic evaluation and accreditation procedure stipulated in this Law "[4], was interpreted according to the particular interests of some private educational institutions, meaning that if there is a university or a provisional licensed or accredited specialization level Central, you can open branches in other locations, without incurring legal running them for approval or accreditation assessment, which gave birth to live dispute between the Ministry, and those concerned ARACIS.

3.3 Perspective of Romania's EU accession, integration of higher education in the European education space, but also taking into account the need to ensure quality education by establishing a legislative framework and the fact that Romania is among the few European countries which lacked a mechanism governed of quality education, it issues an emergency decree number 75/2005, filled with other regulations. New law brings new elements, defines the notion of providing education that is "an educational institution, an NGO or a company, which under state law carries out activities or programs authorized by continuing training." [5] The same law subsequently became law 87/2006, defined in Article 3, quality of education that is "all the characteristics of a study program and its provider, through which expectations of beneficiaries' satisfaction, and quality standards" [6].

Accreditation organizations providing education and programs of study are part of quality assurance.

All same legislation and accreditation was defined as "a means of quality assurance which certifies compliance with predetermined standards for establishment and operation of organizations providing education and their curricula" [7]. Becoming a permanent priority for any institution, organization or school unit, the policies promoted by the Ministry of Education, had legislative act establishing a national independent institution with legal personality and its own budget of income and expenses - Romanian Agency Insurance Quality in Higher Education (ARACIS). The law set up standards for quality assurance methodology, criteria, standards and reference standards, performance indicators, qualifications.

At 9, the criterion is defined as "a fundamental aspect of the organization and functioning of an organization providing education," the standard for "describing requirements in terms of rules and outcomes that define the minimum level required to achieve an education activities", the reference standard defines the requirements to achieve optimal educational activity, performance indicator "is a tool for measuring the degree of realization of an activity of an organization providing education, by reference to standards, standards that reference" and classification which is "the result obtained by reading and learning the completion of a vocational or university program of study" [8].

Providing quality education was to achieve both internally by each organization that was providing education to establish committees for

evaluation and accreditation as well as externally that was to be done for higher education ARACIS.

Notes:

- [1] Mili C (2005) "Designing and implementing a quality assurance system of higher education economy" (doctoral dissertation), Bucharest, pp. 330
- [2] Law number 88 of 17 December 1993, Official Gazette of Romania, Part I, number 307 of December 27, 1993

- [3] Ibid.
- [4] Ibid.
- [5] Government Ordinance 75/2005 published in Official Gazette, Part I, number 642/20.07/2005
- [6] Ibid.
- [7] Ibid.
- [8] Ibid.

ROMANIA TODAY: POLITICS, LAW AND ADMINISTRATION

Irina Olivia POPESCU

Romanian Justice Reform under CVM's rule. Innovative vision of the New Civil Code in matters of property rights

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Abstract: *The New Romanian Civil Code, in force as of the 1st of October 2011, has new provisions related to how a person can obtain the property of goods, either immobile or mobile. The acquisitive prescription is described in articles 930 – 940 of the NCC, using old legal provisions of the Decree-law no. 115/1938. The main point of interest in this new ruling is the accent on using the land books for most of all legal operations concerning land in particular and immobile goods in general. Seen as the most useful way for a possessor of goods to become proprietor of goods, the acquisitive prescription poses a great interest also for generating property rights also for mobile goods, since this situation had poor details in the old civil code.*

Keywords: *New Civil Code, acquisitive prescription, land book, property right, goods.*

Acquiring property right and other real rights by usurpation

Acquisitive prescription, or usurpation, is defined in doctrine as the original way of acquiring property or other real rights over immovable property by possession by a person under the conditions and in the time prescribed by law¹.

As we shall see in the NCC system, we observe fundamental differences in the scope of this mode of acquiring the property right².

In the old Civil Code system, usurpation was of two kinds: usurpation of 30 years, governed by art. 1890 Civil Code and usurpation of 10 up to 20 years, governed by art. 1895 Civil Code³.

NCC governs the acquisition of real rights by usurpation in Chapter III, entitled *Effects of possession*, in Title VIII – *Possession*, using a legal system fully consistent with that of the land books. According to art. 928 NCC *"under this chapter, the possessor may acquire ownership of the possessed property or, where appropriate, the fruit produced by it"*. Also, art. 929 states that *"No goods can be subject to usurpation, which, before or after taking possession, were declared legally inalienable"*.

These first two articles in the chapter on the effects of possession in the New Civil Code, albeit in a relatively concise manner, regulate the usurpation institution as a means of acquiring the property right over a good or over the fruit produced by he good in question, as the effect of possession exercised on that track.

The New Civil Code defines in art. 929 the types of goods that can be acquired by usurpation, using as scope of this institution only inalienable goods category.

Thus, goods that cannot be subject to usurpation are either inalienable property belonging to the public sector or private goods declared inalienable by law.

Using the extensive interpretation and also per a contrario of these provisions, it appears undeniable that the property right over all other categories of goods may be acquired by usurpation, only stating that the goods in question are subject to be legally possessed.

According to art. 916 par. (1) NCC, possession is the factual exercise the prerogatives of ownership by the person who possesses a good and behaves towards it as an owner⁴. According to legal regulations, can be subject to possession only the corporal individually determined goods, which are in the civil circuit. Consequently, the inapplicability of usurpation extends both to inalienable goods and to the generic goods and the universalities of such goods.

In the scope of usurpation cannot be included the use of real rights such as free use and the lease right established under private property rights belonging to the state or administrative-territorial units.

It should be noted that the birth of these rights is subject to a regime of public law and as such makes it incompatible with the acquisition by usurpation⁵.

In the NCC system, a notable difference from the provisions of the old Civil Code is the introduction of mobile goods usurpation, together with the well-known, real estate usurpation.

Regulation for the first time on a movable property acquisition by usurpation is an alternative in case the conditions for acquiring mobile goods as a result of possession in good faith are not fulfilled.

In the NCC is taking over the real state usurpation classification used in the Decree-Law no. 115/1938 on the application of acquisitive prescription in Transilvania and Bucovina. Are taken over in this way the tabular and the extra-tabular usurpation, the only difference between the two legal systems being the time interval required for acquisition, decreased considerably in NCC.

Extra-tabular real estate usurpation

Usurpation regulated by the text of art. 930 par. (1) NCC is called extra-tabular because it operates outside the entries of the land books. This statement should not be understood like the registration of usurpation in the land books is not required, but like this is a way of acquiring property by a person not registered as proprietor in the land book.

According to the legislator's will, the extra-tabular usurpation is applicable only regarding the property right and its respectively dismemberments such as usufruct, use, habitation and servitude. Extra-tabular usurpation does not serve the other real rights, as listed in art. 551 NCC.

According to art. 930 par. (1) NCC *"The property right over a immobile good and its dismemberments may be registered in the land book by effect of usurpation, for the benefit of the one who possessed it for 10 years if:*

- a) the proprietor registered in the land book has died or, where appropriate, has ceased to exist;*
- b) was registered in the land book the declaration of renunciation for the property;*
- c) the immobile good was not registered in any land registry."*

Also in par. (2) of the same legal text is stated that: *"In all cases, the usurpator can only acquire the property right if he has made application for registration in the land book before a third party has registered its request for registration of rights in its favor based on a legitimate cause, during or even after expiry of the usurpation term."*

From the very term that defines this kind of usurpation, its scope is clear, namely the lack of registration of ownership or other real rights in the land books, for the reasons listed in par.1 of art. 930.

It is noted that the legislator considered both the situation where the good desired to be usurpated was never registered in the land book and practical cases in which entries in the land books no longer conform to reality (if the owner registered in the land book no longer exists and there isn't a new entry to its successors or acquirers in private - art. 930 paragraph 1 letter a) or if the property owner registers in the land register an authentic declaration renouncing his right to ownership of that good (as provided by art. 930

paragraph 1 letter. b, which is in fact a way of ending the property right covered by art. 562 par. 2 NCC and a situation of loss of possession regulated by art. 921 NCC).

A situation that was not foreseen in the old Civil Code, concerning the case where a legal person is the owner of the property is now considered in the provisions of art. 930 paragraph 1 letter. a, where it refers also to the termination of the legal person, in addition to the premise of individual's death as a cause of registration of property right by the effect of extra-tabular usurpation.

As regards the time within property can be acquired by extra-tabular usurpation, legislators established a period of 10 years, reduced to half of the 20-year period provided for in Decree-Law no. 115/1938 for the same kind of usurpation.

The time from when acquisitive prescription begins to run varies by situation-premise on which the request for registration of property is founded, starting either from the date of death or closure of the owner of the property or from the date of registration in the land book of the declaration of renunciation of property, or, in the absence of entries in the land books, since the actual possession of the usurpator begins on the immobile good.

This means that within these 10 years, the exercised possession of the usurpator is meant to be useful, according to art. 922 NCC. Not affecting its usefulness requires possession free of vices - discontinuity, secretly or by violence,

the existence of a period during which possession was flawed leading to suspending the usucapion term and, by default deducting it from the 10 years' term.

Acquisition of ownership or its dismemberments by extra-tabular usurpation is achieved through the means of an application by which the usurpator seeks registration in the land book of his property rights or a dismemberment of ownership right, prior fulfilling one of the conditions and provided by art. 930 par. 1 letter. a-c. the usurpator must apply his request before another application is brought by a third party, making irrelevant the situation that the third party submitted his application during the flow period of 10 years or after its fulfillment.

However, it is necessary to note that any application of the third party must have a fair basis for acquiring title to property that is subject to extra-tabular usurpation; if the third party does not have such a legitimate title, registration in the land book of the usurpator is to be made without taking into account the request made by a third party without meeting legal requirements.

After the expiration of the legal term for extra-tabular usurpation, the usurpator does not automatically acquire immovable property in question, but this expiration produces only the birth of a right of option for the usurpator, in the purposes of formulating or not the application for registration in the land book of his usurpation.

The acquisition of property right or of one of its dismemberments by extra-tabular usurpation occurs by

the effect of the registration in the land book.

The rights-constituent effect of the land book registration title is also a way of acquiring ownership, according to art. 557 par. 4 NCC.

Tabular usurpation, taking over the contents of Decree-Law no. 115/1938, is based on entries in the land books, but they are restricted to those registrations made without a legitimate cause, so without a valid title.

Tabular usurpation, governed by the provisions of art. NCC 931, operates in favor of the person who is registered in the land book, not against the person who already enjoys the presumption born from an existing land book registration⁶.

According to art. 931 par. (1) NCC: *"Rights of the one that was registered, without legitimate cause, in the land book, as the owner of a property or other real right holder, cannot be disputed when the person registered in good faith for the property possessed the immobile good for 5 years after the time of filing the application, if his possession was uncorrupted."* Also the legislator is showing that: *"It is enough that good faith exists at the time of filing the registration application and at the time of entry into possession"*⁷.

Unlike extra-tabular usurpation, for the tabular one, the pre-existence of registration of usurpator's right in the land book is a prerequisite, but not with the title that was the basis for registration being valid. Invalidity of the title may come either as a cause of nullity of the legal act (void of form or substance) or as a legal act was concluded with a non-proprietary (the acquirer believes

that the real owner shall forward his ownership of the property, but the seller is not the legitimate owner and therefore the contract is null).

For either of these two cases of invalidity of the title, there is an explicit requirement of the law for the third party acquirer as to invoking tabular usurpation: good faith.

If the purchaser was aware at the time of concluding the contract of its causes of inefficiency, then he is purchaser in bad faith and art. 931 par. 1 is not satisfied.

However, the par. 2 of the article makes clear two points when good faith from the usurpator must exist: at the start of possession over the property (so at the start of flow period of) and at the time of application for registration in the land book (after reaching tabular usurpation legal term).

There is clear, however, that between the two moments is found the entire time flow of usurpation; as a consequence, it appears that if, during the term flow, the usurpator knows its title is flawed, regardless of reason, good faith ceases and the stipulation of its existence at the time the request for registration in the land book was made is no longer satisfied.

The period prescribed by law for possession of the property to be converted into tabular usurpation is 5 years, during which the usurpator's possession must be uncorrupted, so useful.

As in extra-tabular usurpation, corrupted possession suspends the term for acquisitive prescription; the affected period of the time is not

taken into account for the statutory period of five years.

The special effect of usurpation is the validation of the original invalid title under which registration in the land book was made.

Also, this effect appears as a punishment for lack of interest of people that could be prejudiced or affected by the invalid act would have interest to use legal means to fight the effects of such an unjust act.

The acquirer of the good would not have interest to invoke the illegality of the title, since its establishment invalidates his registration of the land book and restores previous situation for the parties, facts that make him lose both the possession of immobile good and the right to invoke tabular usurpation.

For both types of property usurpation, the provisions of the old code apply also in the NCC in terms of possessions' junction. In the current regulation, possessions' junction is found in art. 933.

Thus, the legislator states that: "Every holder is deemed to start in his person a new possession, whether the property has been transmitted as universal or particular"⁸.

Also, NCC takes over the Civil Code's conception that possessions' junction⁹ will operate only if there is a legal relationship between the possessor and his author¹⁰. Possessions' junction involves the

addition to the term of actual (own) possession of the time the good was possessed by his author.

It is however noted that the legislator does not specify in the NCC the time until the usurpation's effects are retroactive¹¹.

Notes:

¹ For more details on Constitutional dispositions concerning fundamental rights and liberties (as revised in 2003) see Anca Parmena Olimid, *Politica românească după 1989*, Aius Publishing House, Craiova, 2009, pp. 63-65

² *Ibidem*

³ For more details see C. Bîrsan, *op. cit.*, p. 316 and following; I. P. Filipescu, A. I. Filipescu, *op. cit.*, p. 314 and following.

⁴ For a detailed approach on possession see D. Gherasim, *Teoria generală a posesiei*, Ed. A.R.S. România, București, 1986

⁵ R. Peptan, *Uzucapiunea în Noul Cod civil*, in *Dreptul Magazine* no. 8/2010, p. 13

⁶ V. Stoica, *Drept civil. Drepturile reale principale*, vol. 2, Ed. Humanitas, București, 2006, p. 465

⁷ Art. 931 alin. (2) NCC

⁸ Art. 933 alin. (1) NCC

⁹ Possession consists of two elements, a material one – *corpus* and an intentional one – *animus*, to see, D. Gherasim, *op. cit.*, p. 20 and following.

¹⁰ According to art. 933 alin. (2) NCC: „Although, to invoke usurpation, the actual possessor may unite his possession with his author's one”

¹¹ R. Peptan, *op. cit.*, p. 39.

ROMANIA TODAY: POLITICS, LAW AND ADMINISTRATION

Andreea-Mihaela NIȚĂ, Veronica ION

Employment policies in the context of the Labour Code amendments in 2011

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Abstract: *The global economic crisis has affected Romania labor market, changing social policies and regulations on labour and employment. To encourage competition and to allow employers to adapt more easily to the rapid changes of economy, in 2011, there have been recent changes to the Labour Code, the act which governs all relationships to individual and collective employment in Romania. These changes include rules on individual labour contract, working hours and rest time, remuneration, health and safety at work, vocational training, social dialogue, collective bargaining agreements, labor conflicts, labour inspection, labour jurisdiction and legal liability.*

Keywords: *employment policies, labour code, labour market, Lisbon strategy, social policies.*

European Union employment policy is an integral part of all the complementary policies which have evolved continuously with the socio-economic development models. The Treaty of Rome (1957) had maybe the first provisions on the free movement of workers and equality concerning the payment of wages rights. Regarding the created instruments, the European Social Fund is the first one which aims to provide support for the achievement of social policy and employment.

Following the creation of the single market, as a result of the Single European Act, in 1986 were made the steps towards ensuring health at work, relieving and preventing hazards that certain substances, used at work, produce. The most difficult was to achieve a balance between economic development as its "engine" and the social and employment policy.

The social dialogue promoted by the Single European Act ensured a continuous process of negotiation between the various member states, through organizations such as:

- ETUC- European Trade Union Confederation;
- EUNICE - Union of Industrialists and entrepreneurs from Europe;
- UEAPME-Association of Small and Medium Enterprises;
- CEEP-European Centre of Enterprises with Public Participation.

These organizations have been trying to defend, argue or claim the rights of those they represented, but also the general economic interest.

Year 2000 represented a major moment in the evolution of social policy through the development of the *Lisbon Strategy*, which is based on the ten-year objective of the European Union, namely "to become the most competitive and dynamic economy in the world based on knowledge, capable of a sustainable economic growth, with more and better jobs and a greater social cohesion".

Later, the European Council has decided that it has to create the necessary conditions for employment of labour force and established a high level of employment rate of 70%, and a female employment rate of 60%, targets which had to be touched by 2010. The Lisbon strategy was created to help the European Union to regain the total occupancy condition of employment and to enforce the social cohesion by 2010.

The objectives of the Lisbon strategy in terms of the labour employment policy were:

- qualitative and quantitative growth of employment;
- anticipation and the capitalization of labor market changes by creating a new balance between flexibility and security;
- the fight against poverty and all forms of social exclusion and discrimination;
- modernization of social security services;
- the promotion of equality between genders;
- increasing the importance of social aspects of enlargement and the European Union's external relations.

The provisions' impact of the Lisbon strategy on employment policy in Romania was favorable on one hand and less favorable on the other. The main conclusions that were split off from the research review of the labour market in the context of European enlargement were:

- enhancing the substantial export of capital (investment) from West European countries to those in Central and Eastern Europe, because production costs are lower, the workforce is cheaper, thereby strengthening the competitiveness of the European market;
- emphasizing the considerable task of the training process to increase the skill of working for employees;
- the adaptation of the labour market policies to specific cultural particularities;
- implementing the structural funds, in particular the European Social Fund, which has led to a considerable development of the labour market;
- the contribution to the economic development gap between member states, to enhance the competitiveness of products, to increase competition on the European market, which ought to overall lead to increase the competitiveness of the European's Union economy.

Unfortunately, the global economic crisis has affected Romania and customized changes in social policies and regulations on labor and employment. The development of member states' evolution from European Union has passed several stages of maturity for its concepts

and models up to create the model called the European social model.

The main areas of activity of national social policy are the labour market (unemployment) and wage policy, pensions and other social insurance rights, social assistance and family policies, labour relations, safety and health at work.

Employment issue is approached by two types of social policies, through *passive policies* consisting in the provision of financial management of the individual in case of unemployment and through *active policies* which usually rely on initiatives and actions of individual, group or community, and which are usually supported by a public authority at local and/or national level with the declared goal of employment growth to the level of administrative territorial unit.

Active programs include four general categories: *the mobilization of labour supply* consists of: programs that improve the chances of employing the persons who pose difficult problems of placement and which, in the absence of such measures would probably remain inactive, granting subsidies to support the employment of the current workforce in the private sector and to assist persons who launch into business on their own, *development of work skills*, which are mainly the responsibility of employers and of the national system of education and training of the workforce. This fact approves training programs for adults, regardless of their occupational status, period of apprenticeship and other related forms of general

vocational training for young people, *promoting the spirit of active search* – aims to support the processes by which those who are looking for a job are put in touch with potential employers, *direct jobs creation*, involving either temporarily work or in some cases permanent work in the public sector or under organization units. Employment policies are a distinct domain within the framework of social policies, their objective being to maintain and increase employment, through direct or indirect actions, designed to ensure jobs for young people who are entering the labour market, for the unemployed or others who want to engage as employed persons. This happen because of another phenomenon – unemployment- with

which the European Union member states face during the crisis, affecting tens of thousands of people. Thus, at the end of 2009, the unemployment rate in the European Union was 8.9%, representing an increase of 1.9 per cent compared with the unemployment rate in 2008.

Unemployment is also rising in Romania, peaking in April 2010, at a rate of 8.07%, similar to that specified in the European Union. According to the Employment report in Europe 2010, the total active population of Romania, respectively 9488 of thousands of people, 967 of thousands were BIM unemployed, a matter which is affecting the labour market, and at the same time the economy of the country.

Population labor force participation in Romania since 1997 to 2010

	1997	1999	2001	2003	2004	2005	2006	2007	2008	2009	2010
Total Population	22328	22346	22326	21686	21638	21609	21575	21551	21517	21484	21462
Population Ages 15-64	15158	15189	15277	14933	14964	15021	15035	15046	15042	15028	18210
Active Population	11756	11566	11151	9915	9957	9851	9562	9479	9944	10226	9965
Total Employed Population	....	....	....	9569	9410	9267	9331	9365	9369	9175	9240
Total Employed Population Ages 15-64	9912	9598	9529	8602	8635	8651	8838	8843	8842	8805	9428
BIM's Unemployed	706	790	750	692	800	704	728	641	576	681	725

Source: European Commission, Report: *Employment in Europe 2010*, p. 188

Unemployment is a complex social phenomenon with multiple psycho-social effects which currently has a very large scale. Increasing the number of unemployed people in the world has focused attention on the

problems of the European Union. In this respect, the European Council has regularly addressed the issue of employment, defining a *European strategy for employment*.

On 26 March 2010 in Brussels, the European Council discussed the new strategy for employment and economic growth of the European Union - "Europe 2020: a new strategy for jobs and growth". The Council agreed on key elements, including key objectives that will guide the implementation and the methods of monitoring and improving strategy. It was agreed that the main objective, namely to arrive at the rate of employment of the workforce of 75% for women and men between the ages of 20 and 64 years, including increased participation of young people, older workers and the less skilled and better integration for legal migrants.

Employment policy work covers vast domains, but closely linked to the related ones. These areas may include: the labour law and working conditions, equal opportunities between men and women, social protection, labour protection, elimination of social exclusion and struggle against discrimination, the creation of a functional system of social dialogue both at enterprise, industry, national and community levels, to ensure the consultation of social partners in making the most important social and economic decisions. The compatibility mode of Romanian law with the Community *acquis* legislation is determined as the ratio between the amount of Romanian laws transposing the *acquis*.

To adapt Romanian legislation in the field of work to Community legislation and the major changes following the macro-economic crisis, in 2011, the Labour Code has

changed for the fifth time in the last 60 years the act which governs all relationships to individual and collective employment in Romania.

The first Labour Code adopted on 8 June 1950 found employment for all employees, including civil servants, without distinction between to those specific categories of public officials and other servants of the Romanian public sector, which excluded in any form, the possibility of employees and enterprises to negotiate individually or collectively the working conditions.

On 1 March 1973 was adopted, in accordance with the basic rules of international law of labour, a new Labour Code which was in spite of the stresses of propaganda the most advanced legislation in the matter of employment relationships from among the former socialist countries. The code could not reflect something other than the spirit of the work concept and society in the consolidation of socialism: the regulation of matters relating to employment relationships; the role of extremely low trade unions and collective agreements, to settle the right to strike.

Since 1989, Romania has come a complex and difficult process of transition to the economy market so that the labour code has become inapplicable, except the Individual Labour Contract without which employment relationships could not exist.

The Labour Code adopted by law No. 53/2003 opens a new stage in the evolution of labour law in Romania. To the labour code of 1973, the new code brings modern rules, adapted to

the labour market in Europe, which protects employees and give them greater security of employment, for which it attracted criticism but also the reputation of "essentially trade union code" (2003 version of press has identified a number of rights, 246 304 in the favour of employees and only 58 in favour of employers).

Changing the Labour Code in September 2006 reflected the criticism received by Romania on behalf of the European Commission within the meaning of the 53/2003 Law which does not fully comply with the Community regulations, in particular in the areas of the working time organization and the procedures for such redundancies.

To encourage competition and to allow employers to adapt more easily to the rapid changes of economy, in 2011, there have been recent changes to the Labour Code, the act which deals with all employment relationships, shows how to control the application of the rules on community employment relationships, as well as labour jurisdiction. These changes include rules on individual labour Contract, working hours and rest time, remuneration, health and safety at work, vocational training, social dialogue, collective bargaining agreements, labor conflicts, labour inspection, labour jurisdiction and legal liability.

The Labor Code proposed by Government for adoption throw the procedure of its responsibility to Parliament, contains amendments to the labour code (Act No. 53/2003). The new code (Law No. 40/2011) entered into force within a period of

30 days from the date of its publication in the Official Gazette of Romania, Part I, respectively on 30.04.2011.

The main amendments concern:

- informing employees on the inclusion in the job description of the job duties;
- completing the rights of employers to establish individual performance objectives and the criteria for assessing their implementation;
- unilateral renunciation of the non-compete clause stipulated in the contract, the payment allowance-compete ending in the following month the employee's written notice concerning the denunciation (art. 21, parag.5);
- specification of the individual labour contract in the amount of additional benefits in money or in all kind of benefits are additional ways;
- establishes the obligation for employers of individuals to conclude in writing, to the employment contract prior to the commencement of execution of the contract;
- increased the duration of the probationary period to a maximum of 90 calendar days for run-time functions and more than 120 calendar days for managerial functions;
- prohibition on the aggregation of more than two functions at the same employer;
- suspension of the employer's initiative as CIM sanction, there will be disciplinary action;
- in the case of the temporary reduction of activity for economic, technological, structural or similar reasons for periods exceeding 30 days, the employer will have the possibility of reducing working time from 5 days to 4 days a week, with the corresponding reduction of wages, to remedy the situation. In case of objective reasons the activity should be reduced or paused for a maximum 15 days per year with the obligation to resume; the employer may be granted unpaid leave, after informing the Union;

- the repeal of article 72, which made references to new hires after the collective dismissal within the meaning of that after the dismissal may be made at any time on the same recruiting posts, without having to wait nine months or sending notifications about new jobs for former employees made redundant;
- the obligation of the employer when the employee's resignation. The employer's refusal to register the resignation entitles the employee to prove it by any means of proof;
- increasing the period of notice in the event of resignation, which may not be less than 20 working days for employees based on performance, not less than 45 working days for those who occupy positions of leadership; a 12 months increase within the duration of the individual labour contract, till 36 months; (compared to 24 months in present);
- impossibility of halting the CIM for a period to be agreed by means of an addendum by workers who have benefited from a trainee training at the expense of the employer.
- compensation for the additional hours labour paid within 60 days after it; during the times of reduced activity, the employer has the possibility of granting days off which will be paid into an account; he must be able to cover in advance, any overtime to be performed during the year;
- programming the leave of rest will be done so that each employee performs in a calendar year at least 10 working days of uninterrupted holiday;
- recovery of salary for damage caused exclusively by the employee;
- increasing the amount of fines imposed by the labour inspectors on work or non-resignation.

The direct effects that occurred after the amendment of the labour code are major and they are affecting the whole system:

1. The employer may employ any person for the same post, for a trial period,

he may give up at any time to any employee during this period without being controlled and this trial period isn't considered a job tenure;

2. Individual performance objectives and criteria for evaluation belong exclusively to employers, and employees can be fired at any time in case of professional discordance;

3. In the case of redundancies there will be fired the first ones who have not accomplished individual performance objectives. The evaluation criteria for these performances are unilaterally set by the employer only. In fact, the employer may dismiss who he will want and the employees can't be defended. After dismissal, even the next day, the employer may hire other people on the employment of those dismissed, without being obliged or sanctioned in any way;

4. Employees could be delegates against their will, without employer's obligation to introduce of a clause in the contract for Individual mobility of Work, which would oblige him to extra pay for his employee;

5. The employee will not be able to continue his activity, so he will not be paid, from the moment in which the required authorization, certificate or notice are no longer valid. Such authorizations, opinions or statements may not be extended;

6. The employer can always decrease the activity of the employee and his wages on the grounds that he has temporarily reduced his activity, without being mandatory (as in the old code) the consent of the employee. Moreover, he can send the employee on unpaid leave. In this way there is no minimum safe labour and income so that the employees may not even take loans from banks;

7. The employment contract during unlimited period will disappear; most employees will be employed by contract for a determined period. In this way it can completely disappear the safety and protection of the workplace, employees won't be able to receive severance pay,

they will no longer be able to make loans, but in this way they can be stimulated to be competitive;

8. Temporary employment agencies will provide increasingly more activities for employers, in preference to their employees. Discarding the strict situations where an employer is allowed to use the temporary employment business, the employer may replace the work of any permanent employee with an temporarily employee to whom he has no responsibility or obligation. In this way there is a risk that the majority of employees to become temporary, that they may be fired at any time;

9. The employer is able to amend at any time the rule for work that is likely to unilaterally alter the salary. Employees will thus become addicted to the employers decisions;

10. Collective bargaining agreements will be available and the employer's wishes known as the "representatives of the employees" in most cases are appointed by the employer and not elected by the people. In this way the rights of employees will be laid down directly by the employer without the possibility of negotiating a fair contract. By entering the undertaking, the employer may retain, at any time and any damage he has and may be assigned to the employee.

Immediate indirect effects were felt in the Labour Inspection statistics subordinated to the Ministry of Labour and Social Solidarity, which, in May this year, covered design for over 75 000 new contracts in the first four days of the new code entry force.

Even if in short-terms employees face adverse changes in the long run, they will be aware of the important benefits highlighted in the advantage

of records relating to individual contracts of Employment and emphasizing competitiveness in the professional level.

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POLITICAL HISTORY: THOUGHT AND PRACTICE

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Politics without Institutions. A Brief Outline of Modern and Contemporary Romanian Administrative History

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Abstract: *This article is a general overview of the Romanian administrative system during the last two centuries, arguing that formal institutions never fully played the role they ought to play and that the historical experience is one of the main explanations for the way in which we perceive them today.*

Keywords: *government, public administration, institutions, decentralization, informal arrangements.*

Twenty years ago, when Romania entered on a new path, Romanian historiography focused on two main directions: the condemnation of the communist regime and the resurfacing of the pre-communist one. It was obviously a desire to discover – or to invent?, we might ask – a local democratic tradition in relation to which the totalitarian experience would have been nothing more than an imposed and unfortunate parenthesis. Although the new historical discourse seemed completely different from the old one, we must notice that the thought remained basically the same – simple and dichotomous – just with a switch of terms: the old Dark Age became the new Golden Age and vice versa. It is not my intention to discuss here this issue. All I want to emphasize is that the presentation of the two ages matches with their names: it is like the telling of a fairy tale, with a lot of details on facts and figures but with no or very few explanations about why and how things were possible. This lack does not seem to make difficult the understanding. Just as adults do not ask questions about gods, emperors, fairies, elves etc., ordinary Romanian readers are not curious to know more about the legal and political status of the characters that populate their history books. Is it their fault? I believe not, since neither the historians consider necessary to provide details. Is it their fault? Maybe yes, maybe not! The fact is that, in Romania, state institutions never fully played the role they ought to play. For this reason, ignoring them is not an impediment to understanding the events, or at least not to an extent that makes obvious the need to study them. I came to this idea while watching some

Romanian historical drama films in which the characters were influential politicians from Modern and Contemporary Ages. I understood everything without being necessary to pay attention to their constitutional/legal rights and duties, but only to accept the convention that they were powerful people. For comparison, I will mention an American movie: *All The President's Men*. In this case, I was not able to understand what happened in the Watergate Scandal without looking for supplementary information on the American government system. Coming back to Romania, I want to say that I studied the evolution of the central and local administration since the creation of the modern state (1859) until nowadays, focusing, due to my academic obligations, on the first 50 years. The research confirmed the hypothesis that formal institutions have always been less important than the informal arrangements, but it also revealed a paradoxical situation, because the same institutions have made the object of permanent debates and frequent reforms. Theory and practice have always been in conflict. Many people would hasten to say that we face once more the classical Romanian pattern. No comment! We might identify a vicious circle: the institutions never functioned properly because they lacked stability and their malfunctioning created the impression that other new changes were necessary. But this theory would suppose that politicians had a real intention to make things work and they simply failed to achieve it. I am not sure about that. I will try to point out below some relevant aspects and to express some

opinions about how the past affects the present.

The Old Kingdom: A Young State Looking for Itself

At the mid-nineteenth century, the government of the two Romanian Principalities had just made the first timid steps towards institutionalization. Paradoxically, the modernizing movement was initially imposed by one of the most archaic states of Europe, Russia. The authority remained highly personalized given that the institutions were not (yet?) rigorously designed and that their functioning was at the beginning. I dare to consider that it was not a particular case in the context of the time. But it was something special here. In order to illustrate the local particular situation I will quote the statement of a foreign observer, the baron Talleyrand-Périgord, a key member of the European commission charged with the drafting of a plan to reorganize the administration of the United Principalities in 1858: “After 1834, we saw how institutions, good in themselves, have degenerated in the hands of local princes who, determined to keep tolerating and even organizing corruption, had to enter into battle with the institutions they were required to develop. As long as this conflict, which is a necessity of their situation, will be perpetuated, as long as the corruption from the top will be inevitably reflected to the bottom, I can not believe in the effectiveness of any administrative and judicial reforms. The government, weakened as political authority, has done everything possible to seize powers that the fundamental law (i.e., The Organic Regulations) protected from it. Where it could not govern, it acted with the help of a corrupt staff

that was assigned to all branches of the public service. Thus, the villages and the village courts, which appear in the law, do not actually exist”¹. I am sure that many people recognize today’s situation in this description. I agree with them. But I do not agree with those who merely note the fact with that kind of traditional Romanian fatalism or, even more, with masochistic pleasure. No! The essential is to find out why and how have we succeed to face the same problems as 150 years ago? Did we never move or did we move in a circle?

Romania made its great leap to a modern political and administrative system at the end of the 1850s and in the 1860s. The main legal instruments were: the Paris Convention of 1858, the so-called Additional Statute (1864) and especially the Constitution of 1866. It is also important to mention some particular statutes, notably those organizing the counties, the towns and the villages (1864).

Let’s begin with the central administration! Its main feature was the incomplete and imprecise regulation. The liberal Constitution of 1866, which represented the “institutional basis”² of the Romanian state for more than half a century, was limited, in several issues to the proclamation of modern principles, leaving the task of proper regulation to subsequent laws, which often occurred very late or even never. All that we know for sure is that the Executive power was entrusted to the Monarch (initially prince and, since 1881, king), who became by that the “supreme administrative authority”. He had the right to appoint all administrative agents – without creating new functions –, to adopt and to execute administrative regulations in

order to enforce legislation. But, due to the irresponsibility/inviolability of the Monarch, all his acts needed to be counter-signed by a minister. The Constitution did not say too much about the ministers; the most important provision was that they were appointed and dismissed by the Monarch without any political responsibility in front of the Parliament. In practice, they were considered “agents of general administration” and each of them headed a ministerial department (Internal/Foreign Affairs, War, Justice, Finances, Public Instruction, Public Works etc.), although the Constitution did not even mention such a thing. Another questionable issue refers to all ministers as a collegial body. Although words like “government”, “cabinet” or “council of ministries” were frequently used at that time and subsequently in historiography, it is important to notice that this institution, however we call it, did not have a solid constitutional and legal basis. From a radical perspective, it might be even said that it did not officially exist, because it was regulated neither by the Constitution nor by any special statute. Its structure and its functioning were outlined to some extent by disparate provisions from various statutes and especially by customs inspired from the Western models. The office of “Prime-Minister” or “President of the Council” had been actually created since 1859 but no written norm regulated it until 1881 when a statute provided that the president had the right to be minister without portfolio. This almost never happened because, due to the fragility of their legal status, prime-ministers preferred to increase their authority by running directly at least one department. Their status within the

cabinet was *primus inter pares*, its superiority was strictly political and their authority derived not from the office but from the capacity to make themselves listened and from the personal confidence of the Monarch. Once again, I dare to say that up to this point Romania was not strongly different from its Western models, because in France and in Belgium at that time it also frequently happened that “practice kept the place of the constitution”³. The originality comes from now on: Romanians did not succeed during the first 50 years to solve any of the central administration’s problems. First, they did not create or they created with great delay the legislation needed to fill constitutional gaps, even if this obligation was provided by the Constitution itself. I will give just two examples. Although the Constitution provided that ministerial responsibility will be regulated by a special statute presented in the first parliamentary session, this one was adopted 13 years later, in 1879, and it was never really enforced. Second, although politicians and legal theorists agreed that, in the spirit of the Constitution, the structure of each department ought to be regulated by a special statute, in practice the statutes were delayed for years and sometimes for decades. The extreme case is the one of the Ministry of Justice, which never had a statute: its structure and its functioning were established by a simple administrative regulation. This situation was definitely unconstitutional. Given the facts that there was no ministerial organizational framework law, that statutes of the various ministries – when there – were not harmonized and that many times, there were discrepancies even between

the provisions of the same statute, it was considered that there was a “clear disregard of the legislature to organize ministerial services”⁴. In addition, Romanians failed to develop strong customs in order to stabilize their administrative system. Practice cannot keep the place of the constitution as long as it has no regularities and is dominated by particular and arbitrary arrangements. The most relevant example concerns the political responsibility of the government. The idea that a vote of no confidence should lead to the fall of the government was unanimously accepted. But this was pure rhetoric because in practice the Parliament was frequently dissolved and the government organized and won new elections. The famous words of the conservative politician P.P. Carp are suggestive for the way in which the Romanian political system functioned at that time: “Give me the government and I will make the parliament”.

Although problems were never solved, they were permanently discussed. It is impossible to resume here the debates that have spanned over half century. I will just say that during 52 years, Romania had no less than 42 cabinets and that each change was accompanied by a giant verbal war.

Generally it can be concluded that institutions existed only in rhetoric. In practice the state functioned on the basis of various agreements between politicians and the monarch, with little respect for the formal law. It became legendary the discontent of the German prince/king about local leaders' behavior and their incapacity to assume long time solid projects: after only 5 years on the Romanian throne he wanted to abdicate, he gave up the idea

but he returned to it more than 40 years later.

Things went different in the field of the local administration. The statutes of 1864 vested counties and municipalities with legal personality and with modern institutions, following the French and the Belgian model. The problems started from the difficulty to enforce the law in the Romanian social and economical context. The consequence was a great legislative instability: the statute concerning counties was modified 8 times and the one concerning municipalities, 6 times, without counting the statutes that affected this matter indirectly. Beyond the frequent changes, it is readily observable the difference between politicians' declared principles and intentions (especially during the periods when they were in opposition) and their effective measures. It might be said that, despite the quasi-permanent proclamation of the necessity of decentralization, the administrative organization of the Romanian state was characterized from the very beginning by a pronounced centralism, which was continuously accentuated. Local institutions were always controlled by central authorities in two ways: first, the legal one consisted mainly in the right of administrative trusteeship (approval or rejection of documents, generally before their entry into force) on the decisions of the local deliberative bodies (county or municipal councils), but also in the right to nominate persons for the executive functions (prefects and mayors); in the second case, the most frequent, it was all about ignoring councils and taking from the center the decisions of local interest. They were enforced by government's agents,

which often acted arbitrarily. Regarding the quality of the administrative staff, we must note that many of the mayors were illiterate and many prefects merely knew how to read⁵.

In conclusion, decentralization was a beautiful word, but nothing more. A central largely unregulated administration and an over-regulated but systematically undermined local administration: this was the main feature of the first fifty years of the Romanian State.

Great Romania: A Bigger State with Bigger Problems

After World War I, Romania saw significant changes not only in terms of territory and population, but also in political and administrative matters. The central administration faced with various new issues. The Constitution of 1923 filled the gaps left by the Constitution of 1866. It was explicitly said that the “the government exercises the executive power in the name of the king” and that “assembled ministers formed the Council of Ministers, chaired, with the title of President of the Council of Ministers, by the one charged by the King to form the government”. Regarding the ministerial departments, during 1918-1929 their organization was still made chaotically, depending on the experience, on the needs of the moment and on the personal or party interests. The lack of a framework law might be considered an advantage because it facilitated their adaptation to the new conditions⁶. The law was finally adopted in 1929 and it formally created an unitary form of the government structures. In retrospect, all these legal achievements may seem important steps forward and they probably would have been so if the old

habit of ignoring formal institutions would have not been perpetuated. The general impression is that most important decisions were taken not in the government but elsewhere, in an informal group of interests, which used state institutions just as a simple interface. During the '30s, this situation became more obvious because of the important role played by Charles II and its “camarilla”. Another problem, strictly related with the first one, was the great government instability: since December 1918 until December 1937, Romania had no less than 24 cabinets with 11 prime-ministers. At a glance, we might ask when did have the central administration the time to function.

The organization of the local administration faced more significant challenges given the fact that it was necessary to integrate new provinces with different experience and traditions (Austrian, Hungarian and Russian). Some of them (i.e., Transylvania, Banat and Bucovina) had a more decentralized regime. But the unification statute of 1925 extended over the entire territory the model of the Old Kingdom, with all its structural and functional disadvantages. This measure generated, obviously, a lot of complaints in the new areas. Another statute was adopted in 1929. The manner in which a historian of the administration characterized this statute synthesizes all about the evolution of the local administration: “it achieved decentralization in the higher degree known in modern Romanian history” but, despite this, “we can not say that it represents a model of administrative decentralization” because the new system was very complicated, the tasks set to the local authorities were too hard to achieve and the trusteeship was still

overwhelming. All that “produced more confusion instead of encouraging local autonomy”⁷. The act was amended 11 times until 1936 when it was replaced completely. During the two interwar decades, beyond the legal problems, the functioning of the local administration was permanently disrupted by political interferences and by private interests, which often prevailed over the public ones.

The state of the central and local administration generated a deep sense of dissatisfaction, which was one of the main causes of the strong current of opinion hostile to the democratic regime. This was abandoned in 1938 when Charles II imposed its authoritarian rule, continued after 1940 by general Antonescu’s command and after 1945 by the...

The Communist Regime: Administration as a Ghost

It seems odd to talk of institutions during the communism. Almost no historian does that although it is to realize that the regime was strongly institutionalized. Excepting repressive or propaganda institutions, rightly considered essential for the regime, but also having “exotic” names that give color to the discourse, all the others are merely mentioned, with no explanation et no concern for their formal and real role within the system. As a parenthesis, we all believe that we know who people like Gheorghiu-Dej or Ceausescu were, but if we are asked about their official functions, I think that nobody is able to give a correct and complete answer and few know how to find it quickly.

In communist Romania the government continues to exist officially as the supreme administrative authority

but, in fact, “its connection with RWP/RCP was very close, fact that in an one-party system meant the enforcement of the decisions taken at the top of the country’s sole hierarchy: The Communist Party”⁸. That is what the handbook tells nowadays to the high-school pupils. We may observe two main characteristics of the government during the entire communist period: the great and permanently growing number of ministers and their frequent changes, called “staff rotation” at that time. The authority of the government members stemmed not from the position in the state but from their membership in the party’s leading structures and/or in the informal group around the supreme leader. Although in law Romania was a democratic republic it functioned as a absolute monarchy with a leading family – it is frequently used the term “dynastic communism” – and a nomenklatura similar to an aristocracy. The word “activist” was used as real a real title of nobility.

The local administration and the organization of the territory suffered several changes passing from the traditional Romanian one to the soviet model and choosing finally an intermediary version. It must be said that since 1950 until 1960 the traditional counties were replaced by wider regions. One of them, inhabited by a major Hungarian population, was called “autonomous region”. But the autonomy existed exclusively in law. In practice, the degree of autonomy is suggested by a popular joke of that time: when Hungarian people asked a Hungarian ruler, Ceausescu proposed them (read *appointed*) someone named Ion Ungur.

As in the previous period, each constituency – no matter its name – had its elected deliberative and executive bodies: Popular Councils and Executive Committees of the Popular Councils. Their functioning reflected the functioning of the central administration: they were accompanied by local party committees led by prime-secretaries (local projections of the supreme leader). Their official autonomy was undermined by the subordination to a national *Committee for the problems of the popular councils* directly subordinated, in turn, not only to the government, but also to the Central Committee of the Party.

Conclusions. How the past affects the present

Where are we now? *Sutor, ne ultra crepidam!* as the Latin poet said. Just as it is not allowed to the shoemaker to criticize what is above the sandal, I think that neither the historian can not judge today's' administrative institutions. From now on, it is lawyers' job to do that.

All that I want to emphasize is that Romanian historical experience could explain the way in which we perceive today state institutions.

First of all, we must accept that we can not borrow any administrative model from our past. It might be possible to identify some particular aspects that we consider necessary/good to take over today, but not an entire and not even great part of a model. Romanian State never had a Golden Age! This is nothing but pure imagination. Let's face it. What we can learn from history it is not related to the formal institutions, but to the political culture.

During the first decades of its life, Romanian State tried to find appropriate institutions, but it failed, maybe because it never had patience to try a precise model for more than a few years. Meanwhile, the real administration of the country passed from the institutions in the hands of various (more or less) informal groups that controlled the state at a given time. This situation, when aware of it, was always considered a transition. But each transition was followed by another one an so on. Formal administration remained just an object of endless debates. Under the circumstances, it was impossible for the Romanian people to develop a civic culture. Instead, it created a real culture of the ad-hoc arrangements and of a relative disregard for the formal law. The communism continued and reinforced all what it had found.

Unfortunately, things did not change after 1990. Polls show always a lack of confidence in the State institutions. Beyond the particular problems of the new transition, the history certainly tells its word: if we are accustomed for so long that the institutions do not matter how can we believe suddenly that they matter? We actually can not, but it is important to believe that they might matter. And we do not seem to believe that either! The so-called "state reform" is nothing but a subject for the talk-shows, with no precise reasons, contents and goals. It seems just one more reform for the sake of the reform and the history teaches us that not only that it does not solve anything, but that it can even aggravate existing problems. The essential is to make the institutions, with all their imperfections, to function in a manner as close as possible to that prescribed by the law. I may look

idealistic to you but I am really not. I am aware that we can not solve our problems without pressures and without a threat with sanctions. If we will be forced to really try that, we will finally succeed and consequentially, for the first time in history, we will gain confidence in the institutions. Here, once more, I expect to hear something about the Romanian nature we like to invoke as an excuse for all the bad things we do. It is nothing about nature, it is all about culture and culture can change...

Notes:

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⁴ Manuel Guțan, *Istoria administrației publice românești*, ediția a doua revăzută și adăugită, București, Ed. Hamangiu, 2006, p. 220.

⁵ *Ibidem*, p. 263.

⁶ *Ibidem*, p. 256.

⁷ *Ibidem*, p. 261.

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POLITICAL HISTORY: THOUGHT AND PRACTICE

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Negative Freedom and its Evolution

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Abstract: *The negative meaning of the freedom requires an understanding of the state of nature. In this article we analyze how the negative freedom is understood. Furthermore, we will show which are the weaknesses and the strong parts of the negative freedom. Besides that, we will focus upon how the concept of negative freedom is understood by John Stuart Mill. We will argue that the negative freedom is better than a positive meaning of the freedom.*

Keywords: *freedom, modernity, John Stuart Mill, liberties, society.*

Public speech upon positive and negative liberties consists in classic discussion upon what is the state of nature. We have to say that at the beginning that natural state is *what people think it is*, not *what natural state really is*, so at this time we are able to say that natural state is a mentally experiment made possible by political thinkers and political philosophers during the age of Modernity. The major conflict between the two points, that of political state interpretation and of the development of the two visions of the concept of liberty, which contains positive and negative liberty, interpretation had been related to social changing and state approach in Modernity. On these lines, it is obviously that the modern states have been changed since the existence of *polis*. Towards ancient *polis*, modern state has now a representative democracy. Besides this main change, political thinkers tried to match a valid interpretation of natural state with the ones of laws, authorities and even in contemporary age with the concept of bureaucracy¹. Therefore, Numberto Bobbio argues that natural law – state relationship has these roots:

a) Natural state, which is non-political and anti-political, is starting to point on the rethinking of the state background

b) Natural state and civil society are opposite one to each other – organized civil society regards a correction of natural law and natural state shortcomings.

c) The natural state background depends upon individuals, and even though they don't share a common society they are *social beings*

d) In natural state all individuals are equal and free

e) Overcoming the natural state and building up an articulated social structure hasn't been done through a necessary transition, but through a common convention, which regards intentions of individuals interested to leave the natural state. Considering this, society appears as an *artificial being*, a product of the culture, not of the natural state.

f) The pattern of society has to present common perspectives, as opposed to natural state².

So far we have showed some incompatibilities between natural state and authorities. We have demonstrated that natural state supposes a non-political approach. Besides that, social order is based on laws, rights, and norms. An articulated modern society is organized, well developed and it has some fundamental principles. Natural state is not a simple or simplistic structure. It contains individuals who act for their own purposes even having common priorities. The next question is how and why natural state has been transformed into a complex social instance? If we are able to understand easily this actual transformation, it might be difficult to observe the first primary stage of evolution from natural state to a social complex organism. Apparently, we cannot see a link between natural state and society in the way the last one is seen today. If on one hand natural stage is constituted by individuals acting for their interest, on the other hand modern societies

are more related with consensual or majority will-power.

Furthermore, the Italian researcher Bobbio says that the concept of freedom has been developing from the following assumptions:

1. Concerning freedom's perspectives we should consider natural state:

a. It is necessary to have a thoughtful overview on natural state, especially if this is an idealistic or historian assumption

b. If natural state supposes the idea of war and peace

c. If in natural state individuals are separated or isolated: if individuals depend on each other or instead of that they have simplistic and primitive forms of social structures.

2. In freedom's perspectives we should follow formal and content alternatives regarding the way on which the society is built:

a. The social contract should take place between individuals for a bigger goal (than for the community in itself) or it should track a third instance

b. The social contract between individuals should have or not a further contract, the one between the people and authorities of the state

c. In case we have a social contract we have to know according to which terms it can be cancelled.

d. We have to know if a contract can get rid of any natural state remaining³.

Briefly, most of political philosophers developed their ideas based on the paradigm that we described above. Every important freedom's theory has a state of nature interpretation and view. As we know, the concept of liberty has been developed into two approaches –

negative and positive. Isaiah Berlin uses two terms to describe liberty which is 'negative approaching' and 'positive approaching'. He claims that the negative perspective of liberty can be circumscribed by the question 'Which is the field inside of whom the individual or a group of individuals is or should be allowed to do, or he is allowed to be, or he is allowed to do without any immixture from exterior by other people?'. On the other hand, positive meaning of liberty leads to the question 'Whom or whereon the authorities can bound someone to do or to be'⁴. Therefore, public speech on positive liberty refers to its object; instead negative liberty regards motivation and tools which are used to support it. According to this, we get to the question 'What is freedom?'. Most of the political philosophers argued in many ways. Berlin says that in general the most common meaning of freedom is found when no individual or law or institution bound us to act in the way we wish. Instead of that, the coercion occurs when the area of freedom, related with what I want and how I want to act, is diminished.

If this area of freedom is naturally reduced by human nature (for example, when I cannot eat more than my body allows me to), then freedom has nothing to do with it at all. Furthermore, if I cannot buy a product, because there are many people ahead in the line, and the number of products is limited, then, again, we cannot speak about limits of freedom at all. Freedom and its boundaries occur when there is an individual or institution or law that restricts me to do something. Considering the example above, I can

only say that I might be victim of oppression if my incapacity to get what I want comes from the others, as well for instance my incapacity is a consequence of other individual or individuals⁵.

However, there were writers and political philosophers who thought that freedom can be limited, considering higher goals of freedom, such as justice, happiness, or security. Consequently, freedom was sacrificed for many centuries in Modernity⁶. At the same time, there were public and personal liberties considered to be *inalienable*. Different writings on freedom were focused on the theme of *What is freedom for those who don't find any use for it?* These assumptions start with the thesis which says that in reality it may happen to limit the liberties of a group of people in order to enlarge the liberties of others. Another question arises – *What is the limit of freedom and how can we find its boundaries?* Of course, one can say that we should ask if *any limitation of freedom is natural or not?* However, different points of view consist in *what is the nature of human beings*. We have now two main approaches about human and his interpretation.

Thomas Hobbes subscribe to the negative freedom. According to Noberto Bobbio, the English philosopher intends to solve the problem of his time, which is the one of unity of the state. It is well known that Hobbes wrote his works during the war. The state and the Church both claimed the power in England. At the same time the Crown and Parliament fought for power as well. Considering these, Hobbes's question was *Who and how can have power?* We have two dilemmas:

Coercion vs. Freedom and Anarchy vs. Unity⁷. Hobbes was worried because of the insecurity of life, the insecurity of possessions, and the insecurity of a restricted freedom⁸. For this English writer, diversity of views comes, in general, from a wrong and dogmatic perspective of interpretation, so he claimed that anyone should follow a pre-designed 'geometry of political views', which can be used as a tool for a scientific method as well as Descartes did with his philosophical method.

In his *Leviathan*, he asserts the following ideas:

- a) Humans are made equals by nature through their bodies and mind faculties
- b) Physical competition is not unequal, when the weak can kill the strong
- c) As skills are equal, then the hopes to achieve the goals are equals too
- d) For achieving our goals, we try to eliminate others'
- e) To have long relationships we need to have an over-mediator⁹.

Beyond his political ideas, Hobbes says every human by nature can use his power to preserve his live. Furthermore, any human by natural law is forced not to put his life in danger¹⁰.

Thomas Hobbes argued that freedom is the *absence of external limits*, which can make an individual powerless and useless¹¹. Bobbio comments that Hobbes was a realistic philosopher, and his theories are closer to reality than others, like Locke or Rousseau. His fears regarding wars and philosophy of human's conflictive behavior make Hobbes one of the most important political thinkers of his time.

For preventing violence to blow up there is necessary to have a tool. Furthermore, there is a need for

individuals to donate some liberties to political power. If political authority manage to give people peace and welfare back, then Sovereignty can hold all the power and use it when necessary, as well. Inspired by the Bible, Hobbes uses the metaphorical name of Leviathan, representing now the political power who had been invested. For Hobbes, only Leviathan can solve the dispute among people. For humans admitting Leviathan's sovereignty it means accepting morality, power, peace, justice¹².

Another follower of the negative liberty is John Stuart Mill. He considers that individuals have the right to have their own opinion, but they shouldn't be allowed to use every act of will that could be a limitation for the freedom of the others. How can we hold an individual act to be expressed if it's dangerous to us? John Stuart Mill says that we should first consider that we have to condemn a taken action, and afterwards we can submit to different forms of active refutation¹³. Who does have the right to pursuit and apply and action against people? Which are the limits of liberty? Mill, as almost all empiricists, considers that human beings can easily make mistakes. In his words, to think is not the same thing with to think correctly. Therefore, people should have the permission to develop their own individuality and personality, in brief, it refers to conditions for welfare¹⁴. His deep understanding of the concept of freedom consists in a strong relationship between us, as long as we don't attempt to limit others' freedom¹⁵.

The specific type of freedom which Mill invokes is, in Cyrus Pattel's opinion, an 'ontological individualism',

which means the humans have a natural dignity, assured by laws. A very important aspect is that law aims to develop a private sphere within which the individual has full sovereignty. The Pattel's conclusion is that without this sphere humans have the same status as that of being slaves¹⁶. The problematic aspect of the negative freedom consists on the equilibrium between human beings (individual) and society (rules). If society is too strong it is possible that individuals may be too weak. If individuals are too strong, the society might be too weak. The latter idea is better than the former, because the real danger which could ruin the world is the absence of personal initiatives¹⁷. Even the laws must admit that human beings are different, and striking down the individualism goes under despotism perspective. Therefore, the freedom of individuals concerns individuality and society and laws of society concerns the structure of society. In short, society must remain in its own field and this structure will protect people¹⁸. That is one clue which makes Mill one of the best adepts of the negative freedom among world's political philosophers. Another reason which gives Mill's philosophy the endorsement of the most popular philosophical conception is that the English philosopher achieved to analyze the transformation of the human into a human being on a deep level of understanding, possible only if humans can choose between good and evil, even accepting that a human being is imperfect in its nature, but a human being has the chance to improve itself and evolve into a great being. The negative understanding of freedom

supposes the presence of the right of experimenting, says Isaiah Berlin¹⁹.

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² Bobbio, Nomberto, *Thomas Hobbes and the Natural Law Tradition*, translated by Daniela Gobetti, The University of Chicago Press, Chicago, 1993, p. 2

³ *Ibidem*, pp. 3-4

⁴ Berlin, Isaiah, *Freedom and its Betrayal. Six Enemies of Human Liberty*, Edited by Henry Tardy, Chatto & Windus, London, 2002, p. 168

⁵ *Ibidem*, p. 169

⁶ *Ibidem*

⁷ Bobbio, Nomberto, *op. cit.*, p. 87

⁸ *Ibidem*, pp. 29-30

⁹ Hobbes, Thomas, *Leviathan*, With an introduction by C. B. Macpherson, Penguin Books, Harmondsworth, 1980; Mill, John Stuart, *On Liberty*, Edited by David Bromwich and George Kateb, Yale University Press, New Haven and London, pp. 37-41

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¹¹ *Ibidem*

¹² *Ibidem*

¹³ Mill, John Stuart, *On Liberty, op. cit.*, p. 87

¹⁴ *Ibidem*, p. 74

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attempt to deprive others of theirs, or impede their efforts to obtain it”. (Sprandling, T. Chareles, *Liberty and Great Libertarians. An Anthology on Liberty. A Hand-book of Freedom*, Golden Press, Los Angeles, 1913, p. 137)

¹⁶ Patell, Cyrus, *Negative Liberties. Morrison, Pynchon, and the Problem of Liberal Ideology*, Duke University Press, Durham and London 2001, p. 14

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POLITICAL HISTORY: THOUGHT AND PRACTICE

Ionuț ȘERBAN

The Greek and Latin cultures reflected in modern Romanian culture

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Abstract: *The article shows how two Latin countries, Romania and Italy, developed, in the modern era, a very close bilateral relation, and helps one to another with sympathy in a crucial period of great transformations such as political and national unity. In all this period of struggle for achieving their national goals the most tied up relations were the cultural ones. We also can see that an important civilization such as the Greek one expressed its gratitude for the sacrifices made by the Romanians that for hundreds of years stood **tall** and defended the western civilizations in front of the ottoman conquerors. In conclusion, the Latin origin of the Romanian people is a heritage that honors them and also obliges them to live up to great expectations, not only from the cultural point of view, but also for the glory that they have to defend.*

Keywords: *culture, Romania, Latin origin, national unity, Romanian independence.*

Choosing Colonel Alexandru Ioan Cuza as Prince at 5 and 24 January 1859 in Moldova and Wallachia put Europe to face the "fait accompli", the phrase that the Romanians transformed in synonym for reform, the fulfillment of national aspirations in the period 1859-1866.

In parallel with the diplomatic recognition of the double election, Prince Cuza was deeply involved in the cultural life of the country, becoming the patron of the establishment in 1860, of the Iasi University.

It is also aimed at creating and consolidating some cultural institutions in Iasi and Bucharest. In this sense, the discovery of a document in the Diplomatic Archive of The Ministry of Foreign Affairs in Bucharest, dated 14 March 1860, shows the response of the knight Annibale Strambio, diplomatic agent of Italy in the Wallachia's Capital, to the note nr.176 from the 28th of January 1860 sent by the Minister for Foreign Affairs of Wallachia, none other than the great poet, revolutionary and unity fighter of the forty-eight revolution, Vasile Alecsandri. He asked to be sent a specialist from the Italian capital, Turin, Carlo Pierrerati to organize and lead the Museum of Natural History in Bucharest, due to the address submitted by the Ministry of Religious Affairs and Public Instruction no.41 from the 20th of January 1860¹.

The Italian diplomat told Vasile Alecsandri that his Italian counterpart had performed the necessary steps near the Department of Public Instruction of Italy, under which Charles Pierrerati was assigned and who accepted the offer made by the Romanian State:

"Mr. Minister, I rushed to inform the Minister of Foreign Affairs of His Majesty, the contents of the note that you had the honor to address Him in January 28th, under the number 176.

His Excellency communicated it to the Department of Public Instruction, under which Mr. Charles Pierrerati, procurator at the Museum of Zoology in Turin, operates.

I received today, from The Minister for Foreign Affairs, the order to inform Your Excellency that Mr. Pierrerati accepted the proposal of the Government of Wallachia and the offered conditions..."².

The Italian specialist, a worthy descendant of the ancient scholars myriad led by Caius Plinius Secundus great (Pliny the Elder), author of *Naturalis Historia* fundamental work, has taken this important mission and will work for five years in Bucharest. In addition, after learning the Romanian language, he would become the holder at the Department of Natural Sciences, University of Bucharest, "Mr. Pierrerati undertake a contract for five years with possibilities to be renewed and he has to conduct the

preparation and organization of the Natural History Museum in Bucharest, with the title of Director, with an allowance of 400 francs per month, which includes accommodation and heating. Travel expenses will be fixed at 90 ducats or 600 francs, and so to return at the contract expiry. Mr. Pierrerati will accumulate tasks attached to the Department of Natural History, whose holder will be the, tasks that will be carried out only when he will learn the Romanian language itself"³.

The Romanian State pledges to give 12,000 francs, an amount that Italian specialist determined to be sufficient for the institutions equipment, in charge of who he wanted to settle as quickly as possible: "The cost for purchasing tools, machinery and other living necessities for the museum would rise, after the calculations were made, at the sum of 12,000 francs. Mr. Pierrerati doesn't insist, however, to have this entire amount immediately. He will give an accurate account about the amount to be spent and about money that will be sent in advance to Turin, immediately on his arrival in Bucharest. Mr. Pierrerati finally wants to sign the contract as soon as possible"⁴.

Italian government's gesture would be followed by other measures to strengthen bilateral relations between Romania and Italy: "The Kings government did all the efforts to delegate a procurator as distinguished as Mr. Pierrerati, and gave him the

authorization to contract this commitment. His Majesty's Government, with whose insurance I'm happy to be charged, it will always speed through the means available to meet the intentions of the Government of His Highness, Prince Ruler in all that will be profitable for the Romanian nation"⁵.

In his turn, Minister Alecsandri communicated the affirmative response of the Italian side by note no. 973 of March the 16th 1860, to the Ministry of Cults and Public Education in Bucharest⁶. During his mission in Turin, Alecsandri will meet Giovenale Vegezzi Ruscalla, an Italian who from 1845 was in touch with Romanian realities, collaborating with the "Gazeta de Transilvania" led by George Baritiu. After the signing of the peace treaty in Paris in 1856, Ruscalla sign articles in the Italian newspapers such as "Lo Spettatore", "Il Mondo Letterario"⁷.

In 1861 he became inspector of the Romanian government for the Romanian students who since 1860 were able to study in Italy. From 1863 was declared an honorary citizen of Romania, status from which he fought in the cultural area for the recognition of Romanian independence⁸. No less important are the historical evidence attesting the historical Greek vestiges on the Romanian territory. The research of these important and valuable evidences begins in this period. We discovered during our research at the Diplomatic

Archives of the Foreign Ministry a series of documents illustrating the fruitful development of friendly relations between the Romanian principalities and Greece.

Thus, in August, the 16th 1860, the Greek General Consulate in Bucharest, through the consul Constantin Haralambie, sent to the Foreign Minister of Wallachia, I.I. Filipescu a letter in which he was informed that a Greek citizen, sculptor Ioan Cossos Greek sent a petition to the Greek Consulate accompanied by two busts made by him in the marble of Paros and Pentelic, expressing desire to donate it to the Romanian state⁹.

In the return address, no. 2936 of 22 August 1860, the Romanian minister thanked to the Greek Consul and sculptor Ioan Cossos, on behalf of Prince Alexandru Ioan Cuza government, expressing the unanimous admiration "for the great work forever engraved in our memory of the classic land of Greece"¹⁰.

The same day he also sent the letter no. 2937 to the Ministry of Religious Affairs and Public Instruction in order to take the necessary steps for the takeover of the assets in the National Museum patrimony of the two works of art¹¹.

The common origin with the Italian people, both nations being the in heritages of the glory of the Roman Empire, made them especially in the modern era have almost the same road in realizing their political and national unity.

In these common fights the cultural affinities were the ones that triumphed all the time.

On the other hand, the Romanian culture was the main barrier that stopped the ottoman expansion over the western world. That's why important civilizations such as the Greek one is grateful for the sacrifices made by the Romanians that for hundreds of years stood **tall** and defended the western civilizations.

In conclusion, the Latin origin of the Romanian people is a heritage that honors them and also obliges them to live up to great expectations, not only from the cultural point of view, but also for the glory that they have to defend.

Notes:

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² *Ibidem*, file 27

³ *Ibidem*.

⁴ *Ibidem*.

⁵ *Ibidem*.

⁶ *Ibidem*, file 28

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⁸ D.A.R.F.M., *Historic Archive*, vol. IV, dossier 46/1860, file 28

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INTERNATIONAL POLITICS: HOW TO DEAL WITH THE RECENT ISSUES?

Mihai Ovidiu CERCEL

Organizational Incentives in the Globalization Process

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Abstract: *The present article examines the increase of a state power and its tendency to control its international relations into a complex action and counteraction, more often than not, a process of redefining its expansion and its ever increasing costs.*

Keywords: *international relations, globalization, geopolitics, economy, diversity.*

The majority of specialists consider that, after the 1980s, sometimes, in an aggressive manner, there were strong incentives of change and restructuring of the international system, through the development of geopolitics, of economy and of financial flows. The increase of a state power and its tendency to control its international relations constitutes itself into a complex action and counteraction, more often than not, a process of redefining its expansion and its ever increasing costs, and into a social organization that can determine the economic surplus and its transfer modalities in the context of globalization. Under these circumstances, a plurality of forces and motivations results into new social, economic and political interaction patterns, both at the national and international level. Rosabeth Moss Kanter from 'Harvard Business School' believes that "without any doubt, globalization is one of the most powerful and universal influences over nations, business affairs, workplaces, communities and lives at the end of the 20th century"¹; these considerations are valid, considering that the whole planet, by its more and more complex relations, has already witnessed a new era, that of cultural harmonisation, of general commercialism and of savage consumption. We witness a replacement of former empires by the empire of the market economy, underlying a global

economic and political organization because, as Adams Brooks comments in his work *The Law of Civilization and Decay*, the great changes in the field of commerce, and also the new and modern commercial roads continue to be the secret of and even the key to history. Namely, anytime, any empire rises again under different conditions and realities, with other rulers, and thus, the cycle starts again, on complex coordinates and for complex reasons, as "the existent relations are tense and practically, everybody has to start new relationships with social systems that become more and more diverse and, consequently, divided."²

This statement is true because nowadays, both the extension of the global market economy and the consolidation of the political influence determine, more consistently than ever, the repositioning of the global market economy, and also of the military power, the one that can dictate a certain type of competitiveness, which powers advanced technologies and more and more capital investment in the assertion of the dominant power.

The diversity, imprecision and inconsistency in the defining of globalization have complicated the evaluation and generalization of its effects, there being opinions in favour or against it, especially fears about the present and even more, about the future of the economic expansion process, of the cultural and political

expansion process, as is known that globalization threatens even democracy, annuls the local autonomy and specificities, national traditions and spirituality. At the end of this century, there are "many social and political problems that are extremely serious, and in order to solve, or at least to tone them down, there are changes that must be made at the level of political action. But to accuse globalization and to wish for its disappearance does not solve anything, while the adoption of new national and regional policies could help the poor and the disinherited."³

Robert Gilpin considers that the in-depth changes in the field of international relations, and also the new forms of expansion, the economic being at the core, still continue to ensure, at present, the succession of hegemonies, as there are states that impose prices and actions, attitudes and force, the balancing of power being imperative, through economic, technical factors, resources, communication, in order to optimise costs and profits.

A number of specialists believe that, through globalization, a certain hierarchy is established in the international economic and political system, that some states will be sent to the periphery, while others, on the contrary, will gain ascendancy, as CMN (multinational corporations) and the excessive international trade will cause sharp inequalities among states. Other economic analysts hold a different point of

view - those countries that export the process of globalization are also subject to some processes of general profits degradation, and it is only by carrying out business operations at the international level that huge profits are obtained, those powerful multinational businesses and companies will definitely consolidate their corporate force, both at the national and international level.

The globalization of business operations was obvious during the last decades of the past century, as it was mainly realised by CMNs, by a complex and constant process of transnationalization, in which the networks of global business operations took part, along with their subordinate branches and firms. In a productive diversity of organization forms, the target markets in the developing countries were identified, then the modalities of business implementation, their sources of support, the possibilities to penetrate the political and consumption area. There were cases when the global networks of production and distribution were reorganized according to certain national barriers and demands, by offering considerable autonomy and advantages of integration in the transnational production systems. For example, in Romania, the Coca-Cola Company obtained different primary advantages regarding locations, exemption from taxes, the same as other firms that received financial aid from the Romanian state, with a

view to creating jobs and to ensure substantial production on the Romanian soil: Ford is one of the companies which, in its position of strategic investor, imposed all sorts of privileges on our country: financial aid, plots of land for the collateral production, a special road for the transport of the vehicles produced at the Craiova factory, tax reductions, rescheduling of payments and interest etc. Another challenge of business globalization is represented by the real investment in the area of production and services. Investment was not always as high as stipulated in contracts, as all types of excuses were put forward, some of them fictitious, others partly real: a lack of proficiency, the existing stocks, the economic and financial crisis, a lack of specialists.

But there are also companies, unfortunately only a small number of them, which, by restructuring and rationalizing their corporatist activities, have managed to remove commercial barriers and financial difficulties, establishing themselves on different international markets. If, years ago, the Japanese automobile companies dominated the American market, nowadays, the Mioveni factory has a destination of products in states with a time-honoured tradition in this respect: Germany, France, Spain. Thus, in a free global economy, certain CMNs connected their national economic performance with the competitive performance on world markets,

both by increasing production and by modernizing their own products, higher in quality compared to these. Other studies pointed out that the exports of these companies acquired a higher share, even in difficult economic conditions, like, for example, the global financial crisis, which did not trigger the decrease or stagnation of production, like in other countries but, on the contrary, diversified it, by producing more for exports.

In the case of multinational companies, another type of behaviour is observable when profits and exports increase, while the state shows a much lower rate regarding the national economic performance.

Hyperglobalists point out and praise the fact that CMNs favour a borderless, solid economy, as the role of the state is diminished in the problems of its own economy, there being a confrontation between the corporate power and the state power, which will generate a zero sum of power. On the contrary, other voices consider that globalization and the transnationalization of business affairs display the redundant character of independence in some states; they consider that the balance of power will shift against CMNs, but they accept the paramount importance of investment and of technology transfers as fundamental landmarks in the present global system.

“However, CMNs constitute the main axis of the contemporary

global economy. Around 53.000 CMNs generate at least 20% (30%, according to others) of the global production (Dunning, 1993b, p. 14; Strange, 1996, p. 47; Tezzaton *et al.*, 1997; UNCTA D., 1998). Despite the regional concentration of production, international business networks comprise the three central regions of the global economy, by linking the destinies of communities and nations in complex networks of interconnections. In opposition to what sceptics maintain, CMNs are not only "national companies with international activities" and, as hyperglobalists comment, neither are they "corporations unleashed", which cross the globe in search of maximum profits (Hie, 1992; Reich, 1991). In fact, CMNs play a much more important role in the functioning of the global economy than they did in the past, and they have a crucial role in the organization of extensive and intensive coordinated transnational networks of production and distribution, which are historically unique. CMNs and global networks of production are fundamental for the organization, placement and distribution of productive power in the corporate global economy."⁴

If the most obvious effect of globalization is represented by the prevalence of the market over the nation-state, and partly, by the diminishing of the national economic sovereignty, and the erosion of state borders, specialists claim that the "supremacy of the market over the state, and of economy over politics", by assigning

definite meanings to this process: "the downward race and the end of national sovereignty, the loss of national autonomy and of control over the economy, the promotion of high technology in diverse geographies, the decrease of welfare, the cheap labour force, the national, social and political disintegration etc. There arises the simple question whether globalization represents a solution both to the rich countries and to the states undergoing the democratization process; whether it imposes the positive significations of a complex process of emancipation in all aspects or, on the contrary, it puts downward pressure on ailing economies.

In a global market, and one that smoothes financial flows, due to the integration of national economies and of international competition, the stating of the globalization consequences continues to be incomplete, therefore increasing more and more the specialists' efforts to define and interpret this extremely complex phenomenon.

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¹ Niculescu, Simona Mirela (2001). *Relații publice internaționale în contextul globalizării*. Bucharest: Comunicare.ro, p. 12.

² Kruckebug, D. (1995). "The Challenge for Public Relations in the Era of Globalization", in *Public Relations Quarterly* 40(4) 1995, p. 37.

³ Gilpin, Robert (2004). *Economia mondială a secolului XXI. Provocarea capitalismului global*. Iași: Polirom, p.223.

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INTERNATIONAL POLITICS: HOW TO DEAL WITH THE RECENT ISSUES?

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Stereotypes, migrants and the media: an analysis of the Romanian press on migration

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Abstract: *The economic and financial situation of the past few years has shifted the balance against immigration, turning immigrants into a less desirable section of the labor force. The result was an increase in the discriminatory rhetoric and in the use of stereotypes that battered the already severed image of migrants and minority groups and reduced their chances in finding appropriate employment and work conditions. This paper is a case study on the manner in which migrants are represented in the Romanian written press which discusses the power the media have on shaping perceptions, especially as it often translates into increasing discriminatory and violent attitudes towards migrants. The study is based upon four research questions: In what manner are migrants represented in the Romanian media? How do general media practices affect reporting on migration issues? How is migrants' cultural identity communicated through the Romanian media? Is there a biased media discourse as regards emigration/immigration? The case study is based on two hypotheses: first, the use of stereotypes, prejudices and cliches by the media is determined by the type or amount of coverage and second, the use of specific themes, news frames and quotation patterns also influence the content of news delivered through the media.*

Keywords: *discrimination, frame, media, migrant, perception, stereotype.*

Brief introduction: myths, images and stereotypes

Myths of cultural identity and cultural stereotypes are fueled through the media often without awareness of the damages these practices could provoke to public opinion perceptions of migrants and ethnic minorities.

Many times images on migrants in the media are filled with preconceived ideas, stereotypes, mentalities and prejudices and the resulting effect cannot be but noxious through the deformed image they promote. Superficiality in perceiving and treating the "other" often leads to a negative labeling.

Various characterizations of migrants¹ often do not exceed some media clichés which can be influential on how society perceives the "other". The interdisciplinary attention surrounding imagology is not of a recent nature as it has stimulated the research of academics and scholars on mental images and stereotypical information for a long period of time. In the public domain discrimination is often delivered through the media by social representations², by constructing or deconstructing social categories, negative or positive stereotypes through which people relate to the "other".

This paper is a case study on the manner in which migrants are represented in the Romanian written press which discusses the power the media have on shaping perceptions, especially as it often translates into increasing discriminatory and violent attitudes towards migrants.

Research questions

The central research question of this study is how migrants' portrayal in the media could reflect upon public opinion perceptions so as to determine the escalation of acts of racism and discrimination capable of threatening the individual's security.

Four other questions stand at the basis of this research: In what manner are migrants represented in the media? How do general media practices affect reporting on migration issues? How is migrants' cultural identity communicated through the media? Is there a biased media discourse as regards emigration/immigration?

Launching hypotheses

At first sight, an attempt to sum up all the different views on migration to and from Romania seems very difficult. However, the approach would be simplified if we were to discuss the issue of migration from the perspective of the hypothesis according to which the type and amount of coverage influence the spread of stereotypes, prejudices and clichés by the media. Thus, the case study is based on two main hypotheses:

Hypothesis 1: The type or amount of coverage influence the spread of stereotypes, prejudices and clichés by the media.

Hypothesis 2: The use of specific themes, news frames and quotation patterns influence the content of news delivered by the media.

Major findings

Media professionals act according to their belief that the press is nothing but a “mirror” of society. However it is the journalist who “a) identify(es) the events worthy to offer news substance, and thus chooses what he/she considers interesting enough to become public information; b) select(s) and verify(es) information offered by various sources; and c) pack(s) information in texts, genres and formats according to predetermined rules of journalistic writing”³. Thus, the paper wonders whether news-making practices influence the content of reporting. According to different authors, news-making is exposed to a double challenge: externally the terrible volume and rhythm of information and events which exceeds possibilities of processing and filtering has imposed labour division and the hierarchy principle, and internally news making relies heavily on work mechanisms based on well-established working procedures and routines⁴. Can this reality in the editorial office justify some researchers’ statements that racism and discrimination appear often in the media not consciously because of the beliefs shared by media professionals, but rather due to routine procedures and professional constraints of news making process: according to Jessika ter Wal *“Racism in the media is often not blatant: it is precisely the implicit stereotypical representations, generalizing or justifying statements, or even the very <absence> of ethnic minorities’ viewpoints in news about them, that produce the widespread prejudice*

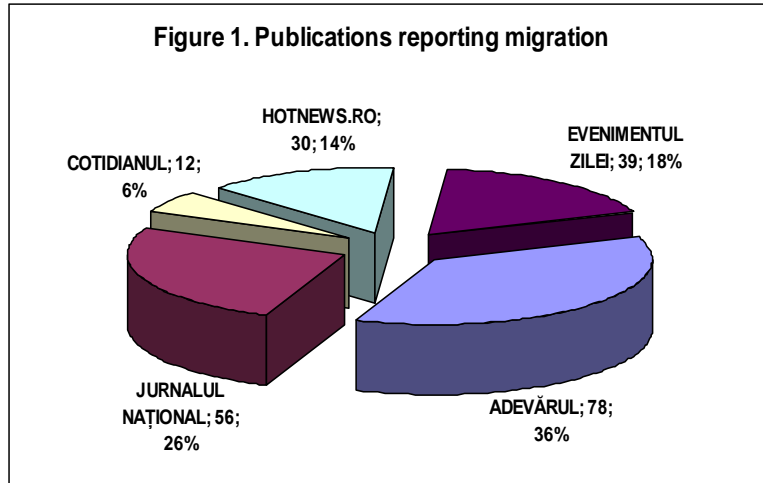
*beliefs and the legitimization of exclusionary practices and hostility towards them”*⁵.

Having this in mind I proceeded to the analysis of the Romanian press in order to reveal the dominant themes with which migrants are associated and to determine how articles are framed. Framing analysis aims at uncovering the hidden message behind an article, though not every article should have one.

The analysis also aims at identifying stereotypes present in media discourse and to determine whether we can observe the existence of bias towards certain categories of migrants. We were also interested in learning whether we can identify under- or over-representation of migrants’ opinion in the media.

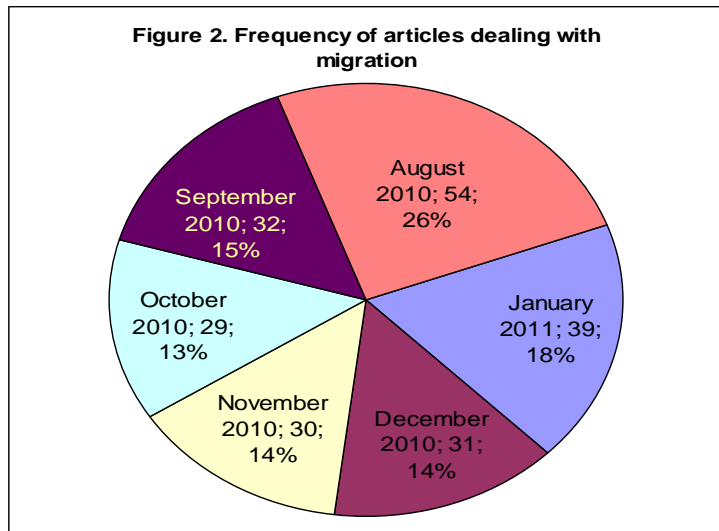
Methodology

The aim of this study is to discuss the manner in which national mainstream media portrays migrants⁶. The analysis is based on the monitoring the electronic editions of four Romanian top daily newspapers (*Adevărul, Jurnalul Național, Cotidianul, Evenimentul Zilei*) and one Internet news source (*HotNews.ro*) in the interval July 1st, 2010 – December 31th, 2010. This analysis is based on articles in Romanian written press that made specific references to migrants. By centralizing all articles dealing with the subject of migration in the respective period of time a total number of 215 articles resulted. In identifying suitable articles for this analysis the following keywords were used: ethnic/ethnicity, emigration/emigrant, immigration/immigrant, migrant/migration, marginalized, minority.



The situation of newspapers which found an interest in reporting migration is as follows: *Adevărul* (78), *Jurnalul Național* (56), *Evenimentul Zilei* (39), *HotNews.ro* (30) and *Cotidianul* (12) (figure 1). The highest frequency was recorded in August 2010 (54 articles) and January 2011 (39 articles), followed by September 2010 (32), December 2010 (31), November 2010 (30) and October (29) (figure 2). This rate of coverage and press interest towards

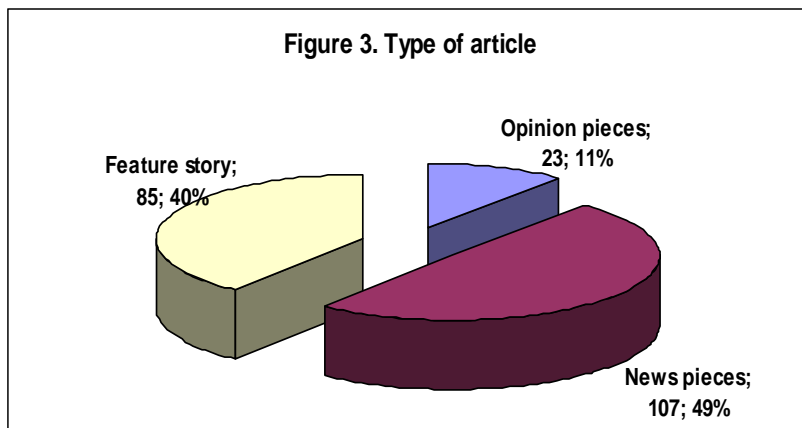
this subject in August appeared after the release on July 20th of the European Commission country report on the progresses made by Romania within the Cooperation and Verification Mechanism and after the numerous “voluntary” repatriations of Romanian citizens, demolition of illegal camps at the periphery of major European cities, and the number of official statements of French, Italian, Swedish authorities towards Romanian immigrants



The numerous articles dealing with the issue of migration in January 2011 can be explained through the interest for the debated subject of Romanians' repatriation was followed by the discussions and official statements on Romania's intention and preparation to join the

EU border-free Schengen area in March 2011.

Moreover, by classifying all monitored articles we obtained the following situation: most articles analyzed were news pieces (107), followed by feature story (85) and opinion pieces (23) (figure 3).



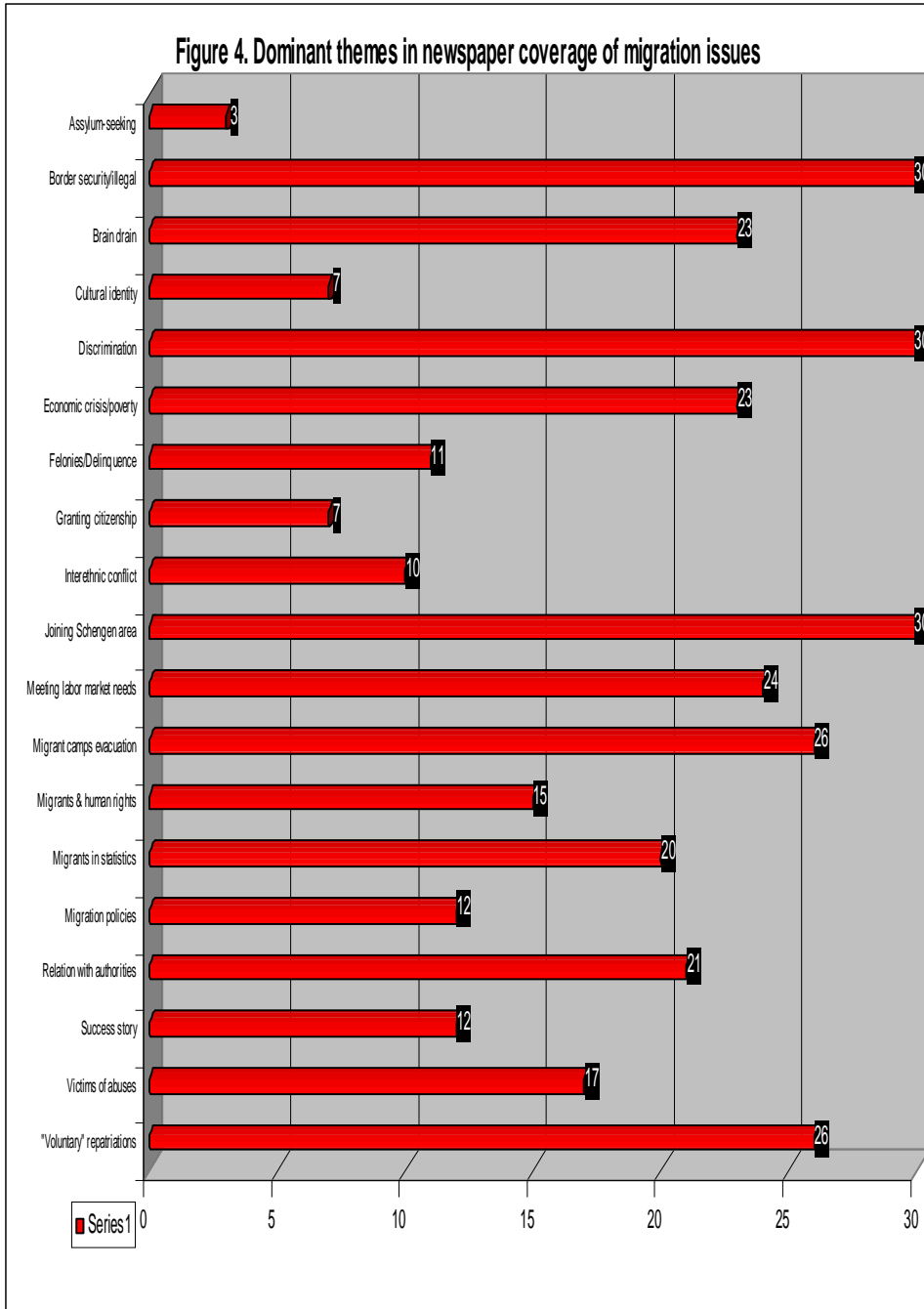
Trends in media coverage: dominant themes, attitudes and frames

The following step was to pass to the analysis of the news contents, to measure the frequency of themes and presence of actors, to identify frames and to offer some interpretation to the results.

Dominant themes with which migrants were associated are presented in figure 4. A first observation is that migrants were mostly associated with discrimination (30 articles), with the issue of joining the EU border-free Schengen area (30 articles) and in 30 articles with the issue of border security and illegal migration.

In some articles migrants were associated with the evacuation of

illegal migrant camps (26) and "voluntary" repatriations (26), with the image of migrant workers meeting labour market necessities (24), brain drain phenomenon (23), economic crisis and poverty (23), relations with national public authorities (21), statistics on migrants/migration (20). Migrants were depicted as victims of abuses in 17 articles, while in 15 articles the issue of migrants is discussed in relation to human rights. In 12 articles migrants were presented in association with migration policies, 12 articles present migrants' success stories. Also, migrants were associated with interethnic conflict (10), aspects of cultural identity (7), granting citizenship (7), asylum-seeking (3).



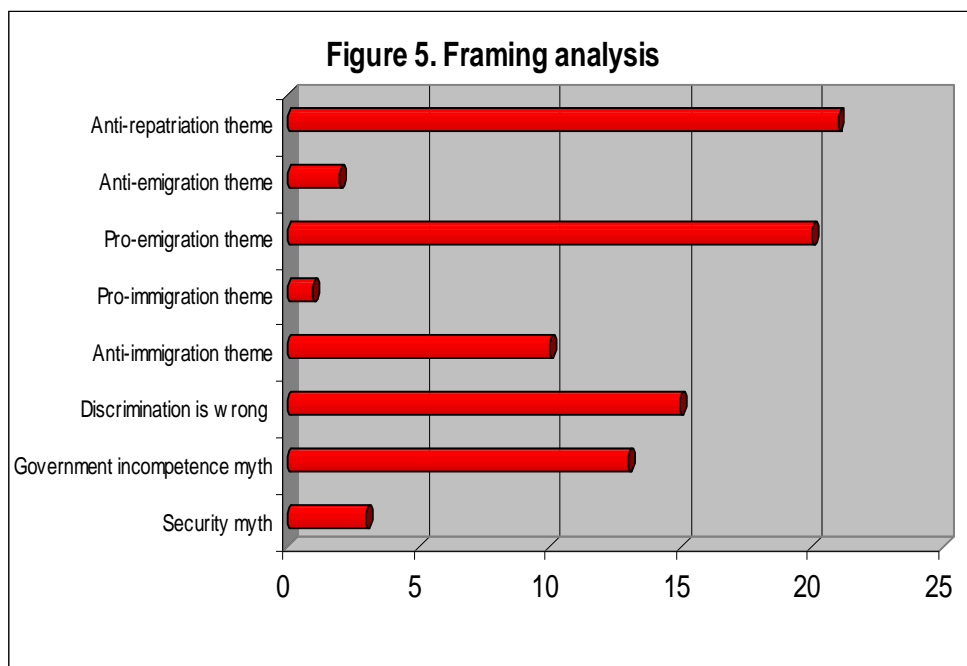
News framing analysis

According to Mihai Coman (2003) framing is developed "1) either through cultural categories common

both to journalists and the public, 2) through cultural models with a profound ideological content, 3) by applying journalistic categories

(stereotypes, writing techniques, styles, genres, formats), 4) by derivation from the ensemble of themes, supra-themes or pre-fabricated narrations existing in the journalistic and social repertoire⁷. Our analysis identified 5 dominant

epic: profit-only once" (*Adevărul*, August 18th, 2010), "Beggar expelled from France: «Used to reach out my hand and say 'Bonjour, madame!'»" (*Adevărul*, October 23rd, 2010), "Sarkozy's gypsy epic" (*Cotidianul*, August 20th, 2010) are good examples



themes in articles framed with strong anti-repatriation, anti-immigration and pro-emigration messages, and in articles framed with a "discrimination is wrong" type of message or in articles filled with the government incompetence myth (figure 5).

The qualitative analysis on how the news media portrays migrants identified a strong **anti-repatriation** message in 21 of the articles studied. Articles entitled "Raids made by Sarkozy against Roma remind of Nazi Germany secrete police" (*Adevărul*, August 17th, 2010), "Sarkozy's gypsy

for the use of this theme. Also, a strong "anti-repatriation" theme could be found in the articles "What kind of Roma does France send us", (*Jurnalul Național*, August 19th, 2010) and "Roma are returning from France", (*Jurnalul Național*, August 13th, 2010).

Anti-emigration theme is used in articles whose message contains a negative portrayal of emigrant life; to quote only a few titles: "An emigrant's life: « In Rome I am too ashamed to speak Romanian »" (*Adevărul*, October 10th, 2010),

“Portrait of Romanian immigrant: Young and poor” – Alfred Bulai (*Adevărul*, August 23rd, 2010), “Who remains in hospitals following the big emigration?” (*Adevărul*, August 13rd, 2010).

Pro-emigration theme was used in 20 articles which promoted the establishment outside Romanian borders. Journalists framing articles this way usually referred to hardships at national level and a generous reward abroad, usually in terms of carrier and better living conditions: “Gardner turned businessman” (*Adevărul*, January 22nd, 2011), “Studies abroad-opportunity to emigrate” (*Adevărul*, November 6th, 2010), “Candidate to the resident exam: « I don't intent to remain in the country to serve »” (*Adevărul*, October 18th, 2010).

Pro-immigration theme was identified in only one article covering the story of a South-African orthopedist doctor being refused Romanian citizenship.

Anti-immigration theme refers to stories framed with the idea that establishment of immigrants is perilous to the majority population through a negative portrayal of the immigrant. Stories thus framed refer to immigrants as a cheap and illegal labour force that can pose a threat to honest tax payers, illegal migration, felony (i.e. fake passport), human trafficking etc. etc. with headlines such as “How do illegal immigrants come in the EU through the Republic of Moldova” (*Adevărul*, January 26th, 2011), “Turkish migrant detained at Poștile de Fier with fake passport” (*Adevărul*, October 31st, 2010), “Dog

Athos detector of illegal immigrants” (*Adevărul*, September 25th, 2010).

Discrimination is wrong is one of the dominant frames identified in 15 articles which promoted the message discrimination and racism are morally wrong. However, the race/migration issue appears linked like this only in articles depicting the situation of migrants outside Romanian borders (i.e. the Roma): “Spaniards make double than immigrants” (*Adevărul*, November 23rd, 2010), “Two Spanish politicians incriminate Romanian gypsies for existing co-living issues” (*Adevărul*, September 20th, 2010) also making reference to the actions of a Catalan politician distributing fliers with the message “We do not want Romanians!”, “Italy intensifies gypsy hunt” (*Adevărul*, August 22nd, 2010), “Is Germany becoming islamophobic?” (*Adevărul*, September 28th, 2010), “Swedish Minister of Immigration on the expulsion of several Romanian gypsies: begging represents an dishonest means to gain money” (*Hotnews.ro*, August 2nd, 2010).

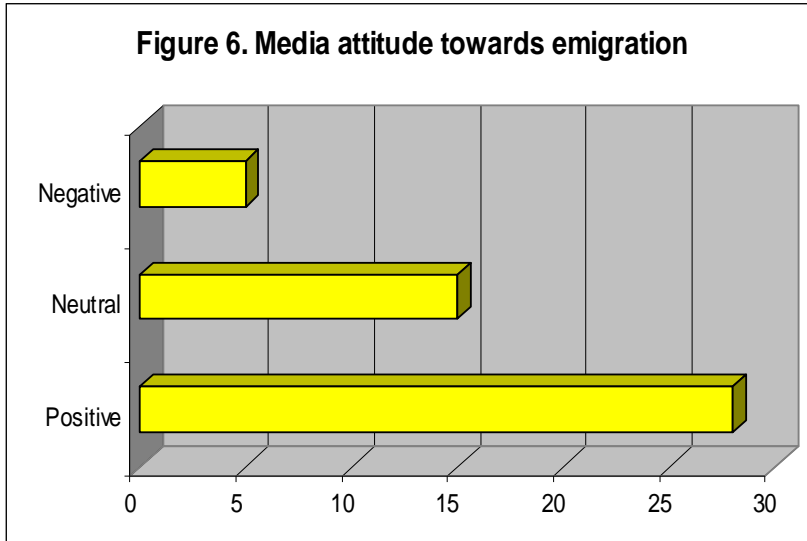
The government incompetence myth. These stories are framed with the idea that government deals inadequately the current economic situation or has not taken the appropriate measures to accomplish the reform. Journalists using this theme often referred to the economic crisis – to quote an IT engineer: “Romania pushes you to emigrate” (*Adevărul*, September 16th, 2010) –, poverty, the situation of the Romanian national health system who deals with a major drain of specialists, small salaries, lack of

funds, poor conditions, dissatisfied patients featuring headlines such as: "Romanian health care system – a ship « on the verge of sinking »" (*Adevărul*, December 13th, 2010), "Exodus of Hunedoara doctors continues: « I cannot go home with a salary of only 1500 lei! »" (*Adevărul*, September 14th, 2010), quoting the chief of state: "Let's make no more drama out of Romanians leaving to work outside the country" (*Adevărul*, August 5th, 2010), "Romanians exodus: second wave" (*Adevărul*, September 30th, 2010), also the evolution of Romania's preparations to join the European Union border-free Schengen area: "Foreign Minister Baconschi put in the corner by the European Commission" (*Jurnalul Național*, January 5th, 2011), "Romania-France: reasons for the recent tensions" (*Hotnews.ro*, December 29th, 2010).

The **security myth**. Stories framed with the security myth contain reference to the number of migrant workers depicted with a fear that would not relate only to economic issues such as unemployment growth determined by the infusion of cheaper labour work or the increase in social security burden for the new comers on the shoulders of the new host country. Journalist could fuel this myth making appeal to the image of waves of immigrants threatening social cohesion and national culture which could be felt as a problem of national security: "EU labour market

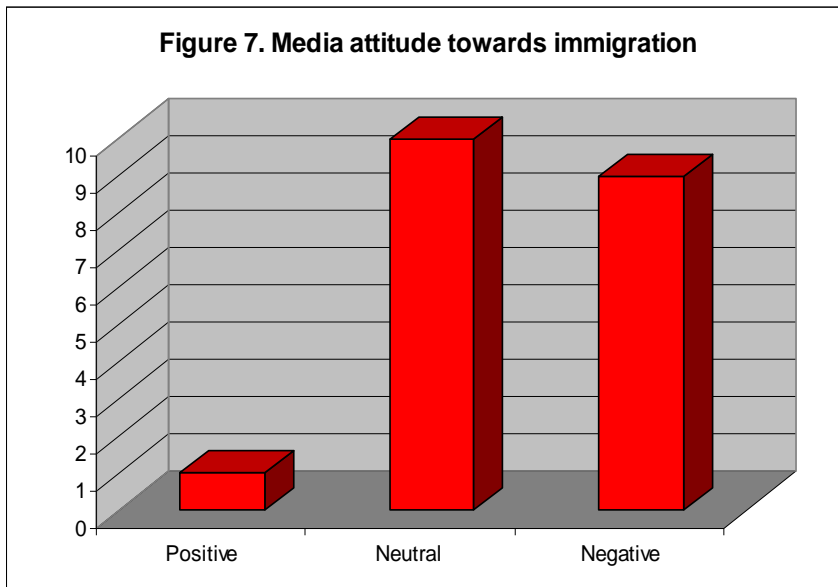
threatened by a wave of immigrants from poor countries" (*Adevărul*, August 5th, 2010).

There is a significant difference between the manner of reporting in case of emigration and reporting in case of immigration. Emigration is promoted, being portrayed as a means of escaping the economic situation: "Romanians exodus, the second wave" (*Adevărul*, September 30th, 2010), "Romania urges you to emigrate" (*Adevărul*, September 16th, 2010), "Doctors and nurses from Brașov flee from the country. 30 emigration dossiers are being registered monthly" (*Adevărul*, November 11th, 2010), "Nurses leaving to England for salaries of £2500" (*Adevărul*, November 19th, 2010), "Studies abroad, opportunities for emigration" (*Adevărul*, November 6th, 2010), "How we wish we left the country!" (*Jurnalul Național*, December 16th, 2010). Also, the press suggests that Romanian authorities lack strategies to cut the brain drain: "You need a head to break down brain drain" (*Jurnalul Național*, August 19th, 2010), and "Salary pay checks drive doctors away from the country" (*Jurnalul Național*, August 17th, 2010). This is a paradox, really. The media cries for the departure of Romanian specialists (doctors, nurses, professors, IT specialists, graduates) from Romania, but, at the same time, strengthens its discourse in favour of emigration (figure 6).



As regards immigration, things change. Looking at figure 7 we have to note that the Romanian publications monitored during the six month period are negatively biased

as regards immigration: "EU labor market threatened by a wave of poor countries immigrants" (*Adevărul*, August 5th, 2010).

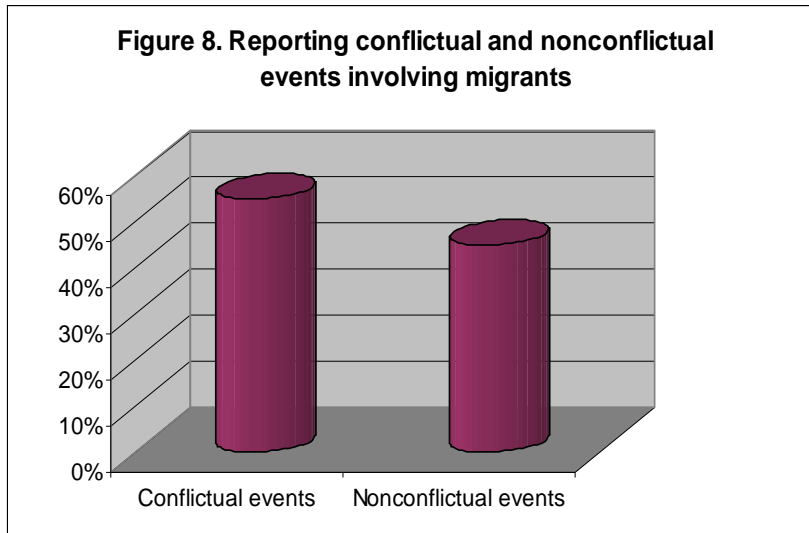


Roma migrants are depicted as beggars and/or washing car wind shields. However, the media strongly argue against the French authorities eviction policies against Roma

travelers. We have to quote here "The Guardian: «Gypsies, the pariah peoples of Europe, much less ignored now, courtesy of Sarkozy »" (*Jurnalul*

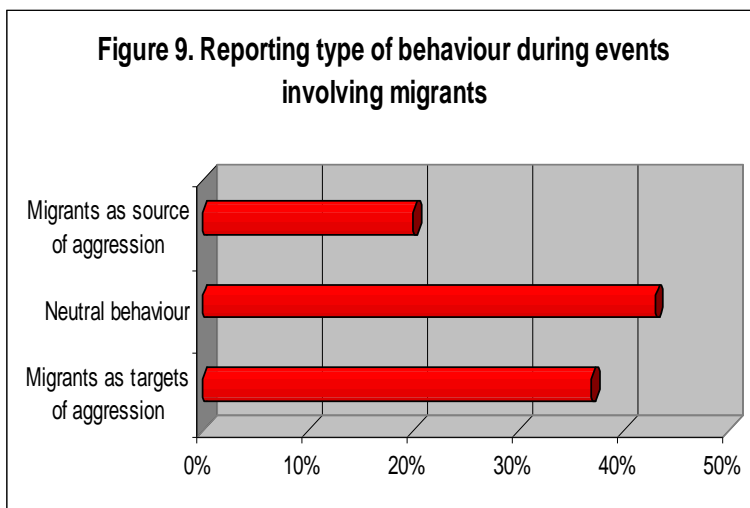
Național, September 17th, 2010), "French deputies debating new immigrant law. Paris Government, « a machine for making good Frenchmen »" (*Cotidianul*, September

28th, 2010). The next chart presents the proportion between conflictual and nonconflictual events involving migrants (figure 8)



In the next chart we have to note that according to our analysis, although 55% of the covered events are conflictual, in 80% of the cases migrants were either targets of aggression (national authorities, police) or had a neutral behaviour (figure 9). We have to note that our

analysis presented the existence of a negative biased discourse when relating to migrants, by presenting rather violent events, some migrants' conflicts with the authorities and/or the majority population. This can be considered another source of stereotypes.



Trends in migrants portrayal: quotation sources

As regards quotation sources we should note in a few lines that regular news sources were politicians, authorities, professionals, experts (professors, sociologists, doctors). We found a serious under-representation of migrants' opinion during the period studied⁸. Migrants' personal statements were quoted either to argue in favour of lack of discrimination or to place responsibility upon migrants for being targets of racist manifestations (placing racist blame), to quote a Romanian emigrant in Seville: "Romanian «fame» is sometimes justified" (*Adevărul*, November 4th, 2010). Typical migrant quoted were ordinary persons, not professionals, nor experts.

Conclusions

The Romanian newspapers' attention on migrants during the monitored period focused on promoting a great deal of issues but failed to mention others such as health, hygiene, access to housing, practicing religion etc. The highest frequency of articles relating to migrants appeared in August 2010, in the context of the numerous "voluntary" repatriations of Romanian citizens, demolition of illegal camps at the periphery of major European cities, and the official statements of European officials as regards Romanian immigrants. The media have a very powerful effect in shaping perceptions and images about a certain group. They reacted to the events of people being evicted from

camps at the outskirts of European cities with stories containing sometimes even emotional anti-racist and anti-discrimination message, which aimed at criticizing the racist and discriminatory actions and attitudes towards Romanian citizens. However, as regards the issue of "voluntary" repatriations, the press addressed it cynically, ironically even, depicting for instance the French initiative of integration of migrants living illegally on the French territory as "wasted money". This manner of depicting the repatriated migrant as taking the next plane with the destination in a different European country with the French state having paid all travel expenses is in itself a source of stereotypes. In fact, minorities and immigrants are vulnerable groups to the attacks of the media since their opinions are under-represented, or are quoted as ordinary people, not as representatives, experts, professionals.

Romania is depicted as having taken advantage from the right to free movement acquired as a Member State of the European Union in order to rid itself of an unwanted minority in the article "Roma population will not evaporate from France" (*Jurnalul Național*, August 11th, 2010). However, media coverage of migrants of Roma ethnicity returning after being evicted by the French and Italian authorities creates a rather disturbing feeling, being able to animate a discriminatory attitude from the rest of the society. This type of discourse based on generalization and categorization could disclose discriminatory attitudes from the

majority population against minorities and migrants. Such an acceptance of discrimination and xenophobia could, in turn, lead to insecurity, negativity, racist violence and crime. In fact, reports on the transposition of Equality Directives collected and disseminated by the European Fundamental Rights Agency show that the number of incidents reported nationally does not necessarily reflect the real number or frequency of discriminatory acts. Also, because of the fact that the public does not trust in the efficiency in making a complaint, is sceptical as to its power to redress the situation, does not have the information that such a mechanism exists, or simply because of fear of possible consequences, or cannot afford such a service, the number of complaints does not reflect the real number of cases of discrimination⁹. However, our attention should not concentrate on placing the blame on a certain publication for a certain situation, but on finding solutions and supporting initiatives to promote cultural diversity in the media.

Notes:

- ¹ For more details about migrants, see Cristina Otovescu Frăsie, Adrian Otovescu, Dan Semenescu, *Dreptul la emigrație al tinerilor și evaluarea problemelor globale ale omenirii*, în vol. *Dreptul românesc în contextul exigențelor Uniunii Europene*, Institutul de Cercetări Juridice "Academician Andrei Radulescu", din cadrul Academiei Romane, Editura Hamangiu, București, 2009, p. 539-550.
- ² Jessika ter Wal (ed.) (EUMC), *Racism and Cultural Diversity in the Mass Media*,

An Overview of Research and Good Practice in the EU Member States, 1995-2000, European Research Centre on Migration and Ethnic Relations (Ercomer), Vienna, 2002, p. 423.

³ Mihai Coman, *Mass media, mit și ritual. O perspectivă antropologică*, Iași, Editura Polirom, 2003, p. 38.

⁴ Ibidem, p. 37.

⁵ Jessika ter Wal, *op. cit.*, p. 423.

⁶ For more details about migrants, see Cristina Otovescu Frăsie, Adrian Otovescu, Dan Semenescu, *op.cit.*, p. 539-550.

⁷ Mihai Coman, *op. cit.*, p. 43.

⁸ For a more recent argument see Anca Parmena Olimid, *Istoria gândirii politice. Libertatea și laicitatea în spațiul public european (secolele XIX-XXI)*, Aius Publishing House, Craiova, 2011, pp.165-173.

⁹ Ibidem.

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INTERNATIONAL POLITICS: HOW TO DEAL WITH THE RECENT ISSUES?

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Communities vs. societies and their function in border regions

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Abstract: *Starting from the classical Tonniesian distinction established between the Gemeinschaft (community) and Gesellschaft (society), in this article we will try to note and describe the existence of a third kind of social unit, which, as a difference from the first two, becomes for us, on one hand the most advanced of society forms, and on the other hand the only one truly and entirely humanlike. First we will make the distinction between it and the first two and then we will discover the general conditions that make it possible. The name of this social unit is inspired from Talcot Parcons works, but even if the content of this unit does not reduce itself to the significance given by the American sociologist, his roots are in it. We will distinguish not only between Gemeinschaft (community) and Gesellschaft (society), but also between them and Freiwillige Gemeinschaft or, as Parcons calls it, Voluntary Community. In the end, in order to apply what we have discussed, we will try to sketch the way in which these three types of social units work in border regions.*

Keywords: *natural community, society, voluntary community.*

Starting from the classical Tonniesian distinction established between the *Gemeinschaft* (community) and *Gesellschaft* (society), in this article we will try to note and describe the existence of a third kind of social unit, which, as a difference from the first two, becomes for us, on one hand the most advanced of society forms, and on the other hand the only one truly and entirely humanlike. First we will make the distinction between it and the first two and then we will discover the general conditions that make it possible.

But which is this third kind of social unit? From the beginning it is necessary to say that the name of this social unit is inspired from Talcot Parcons works, but even if the content of this unit does not reduce itself to the significance given by the American sociologist, his roots are in it. We will distinguish not only between *Gemeinschaft* (community) and *Gesellschaft* (society), but also between them and *Freiwillige Gemeinschaft* or, as Parcons calls it, *Voluntary Community*¹. In the end, in order to apply what we have discussed, we will try to sketch the way in which these three types of social units work in border regions.

But first let us see what differences we can establish between *Gemeinschaft* and *Gesellschaft*. Our effort will be easier due to the investigations of the German thinker Ferdinand Tonnies². As we all know, he considers, being under the Kantian – Schopenhauerian influence, that all forms of social life have their origins in the mental life which comes from a

common and primary substance: the will. We are talking here about a will that, although it has a unitary character, it can develop two different forms of manifestation: on one hand the one called *Wesenswille* (essential will) and on the other hand *Willkur* (rational or arbitrary will).

Starting from the fundamental philosophical distinction between the natural, instinctual, primary and organic will (the biological will transposed through the foolish instincts of the living being) and the conscious and utilitarian will, Ferdinand Tonnies will distinguish two types of social units. One is simple and traditional, characterized by an affective and organic solidarity, based on common traditions and customs, and, at the same time, on a good integration into the natural environment. Here we refer to the community, as a product of the organic will. The other one is modern and complex, based on convention, opinion and legislation, maintained through intellectual and mechanic solidarity which overlaps in a tense way on the environment. Here we refer to the society, as a product of the thought out will.

Being a form of life centered on the family, one in which exceed direct social relations based on mutual knowledge of the members, the community appears in the villages or in small towns, therefore in a small physical space. But this fact will not lead to the corruption of its social functions, because the risks of biological degeneration, economic autarchy or cultural blocking are extremely low here. Small risks can

be explained by the existence of a moral community, which adjusts through tradition and custom, both blood ties and other types of community associations, and, at the same time, the entire range of social activities conditioned by these. However, because it is the effect of the natural human predispositions – sympathy³ - like the maternal feeling, fraternal affection, or spontaneous biological inclinations, in time it gains different proportions. This is why it's necessary to list, in the community's sphere, also the clan and the village, the people and the country.

All of these, in their quality of natural products of the social human predisposition, through which the men is oriented and open to the others and he has the power to spontaneously subordinate his goals to the collective purposes, are seriously different from what Tonnies calls *Gesellschaft*. For the German author, this is nothing else than a social, rational, artificial, and mechanic ensemble of people's selfish wills, foreign and against the common interest, which have been organized under the form of state authority and which controls and adjusts itself through the binding force of the law.

Formed inside the big towns and bound to them, the society is an existing environment in which the relations between humans no longer freely perform, in a constructive way, through language and with the help of the word, but rather through belongings and through a cold and calculated exchange incurred by them. This is why, on one hand, here the art and religion make place for

science and theory, just as the moral makes space for the law, all this causing the transformation of the public space, based on spontaneous interaction, immediate recognition and understanding, in a complex and more grasping market in which the production, competition and capital accumulation are important words. But, as the community environment evolves during the time, growing up in the form of the clan or nation, also the society diversifies itself taking a lot of faces. The German author calls them *Samtschaften* (social classes, religious groups or political parties) or *Sociale Verbände* (secret societies, commercial societies), which he considers the products of the thought-out and arbitrary will.

Yet, for the German author, the difference between the two social states isn't a radical one. First of all, what contributes to this conclusion is the fact that society is a social environment, the product of a gradual intellectualization and rationalization of life inside the community. It is true that, for Tonnies, the sense of this gradual intellectualization of community life is not a positive one. It is explained by the conception that the German author has about the function and sense of the reason: the reason is not only a faculty that develops itself based on the unnatural evolution of human life and on the aggravation of general conditions of existence but also an element that contributes, in a direct and crucial way, to the alteration of the natural and affective foundations of human beings. Another fact that entitles us to say that the two social states are not in a

radical opposition comes from the idea that not only the communities transform themselves into societies, but, here and there, also the societies convert themselves into communities. This observation is very important for the present article and we will return to it.

First, we have to say that recognizing this genetic and historic bond which exists between community and society helps us to present this two terms in a formal opposition, exclusive and fruitless, in which we are tempted to close them and to make space for new ones which through their content are not assimilated neither by the former, nor by the later. Only this way we can speak, for example, of what professor H. Schalenbach was calling in his work "*Die soziologische Kategorie des Bundes*" (1922) – "Der Bund" meaning "the bond and union of a group of people formed through the passionate and intentional adhesion around the domination or leading force held by a person"⁴; or by the already remembered *Freiwillige Gemeinschaft* which designates that form of social life established between those people which benefiting of a high degree of knowledge of reality and mobilized by a powerful feeling of community and social equality, have not only the capacity to realize and understand the meaning of voluntary participation and collaboration at practical activities with immediate character or at others with indirect character (cultural ones) required by the society, but also have the natural power to concretely involve in their development.

Then we have to underline that only starting from the recognition of the genetic and historic bond between community and society we get to the situation that, on one hand, to successfully determine the general conditions which promote the appearance of others societal forms, and, on the other hand, to describe and precisely distinguish their nature.

Indeed, whether we speak either of Der Bund's genesis, or about *Freiwillige Gemeinschaft's* genesis (which can't be mixed up with *Natürlichen Gemeinschaft*), we can ignore neither the historical capital phenomenon of changing communities into societies, nor the non-regressive, but less common, phenomenon of later changing societies into communities. This happens because at the basis of the appearance of societies is the process of inner transformation of natural communities, and at the origin of the voluntary societies is sitting the late development of societies. This is why we will not talk about the nature and conditions of the appearance of voluntary communities without first understanding those of the appearance of the societies.

So, let us first discuss about those conditions that encourage *Gemeinschaft's* change (in the Tonniesian sense of *Natürlichen Gemeinschaft* – natural community) into *Gesellschaft*.

Inspired by F. Tonnies's terminology we have defined the *Gemeinschaft* as a social unit based on common traditions, costumes and habits, animated by the affective and organic solidarity of its members,

and, on the same time, on a good integration into the natural environment, therefore as a social unit, unitary, stable and undifferentiated, characterized by an internal balance hard to shake. That is why trying to identify, in this case, the source of the transformations, differences, crises and imbalances appeared inside this kind of social organism, proves to be, from the beginning, a hard and risky action, equal to the bold try to discover the well searched law of social evolution which has preoccupied the XIXth century philosophers.

We say "apparently" because the attempt to establish the sources of inner transformations that affect a social organism, like natural community, does not reduce to the one of discovering and formulating a law of social evolution like Herbert Spencer and his colleagues tried to do⁵. The source of social movement must not be mixed up with the law of its manifestation. This because if the source identifies itself with the movement or it's responsible of its appearance, the law records only the formal registration of its sense instead: for example the transition of what Spencer calls "the indefinite and incoherent homogeneity of an organism" to its "definite and coherent homogeneity" or the evolution from "the energy dispersion" to "its conservation and redistribution", so you cannot explain inside an ensemble the appearance of the movement, but its nature of manifestation.

But which is the source of movement and inner transformations that keeps pushing the natural

communities on a historical, unpredictable and arbitrary way then? Our cultural experience helps to understand that the source of movement that affects both the life inside natural communities and also the existence organized outside them, hides inside our mental life: there is a native relationship, a primary identity indeed, between movement and mental life⁶, a relationship that contributes both to the stimulation, mobilization and development more and more intense of the mental life and to its conservation. This native movement specific to mental life is present in all the levels of organization of human life, from the biological one to the cultural one and it manifests both under the form of natural instincts or human's creative acts, and under the form of several synthesis impulses located at the borderline between biological and cultural order, natural cultural-conditioned impulses that also supports the social, political, economical organization of human life. We refer here to the social impulse that signals the necessity of life in common in human's existence, at the political impulse that reveals a certain need of power and organization of man's life, but, most of all at an economical impulse that we consider to be the irresistible source that starts the crises and historical changes of natural human communities and also contributes to converting them into advanced societies: production impulse, consumption impulse⁷ and most of all, exchange impulse⁸.

But why do we consider that the last phase, the exchange one, is

crucial for the structural conversion of the natural community into society?

First of all because the production impulse as well as the consumption impulse characterizes not only the economical order of advanced societies but also, to an equal extent, the economical order of natural communities. Their function does not affect the *Gemeinschaft's* structural sphere, because both the production and the consumption, due to their domestic character, instead of disturbing community's organic balance, contribute to its maintenance and consolidation. Not without reason, the life of natural communities, either agricultural or pastoral⁹ ones, obeying the rules of domestic economy, has pursued its course during the time despite a lot of short term interruptions due to different external causes, like armed aggressions, epidemics. All of this was possible because each time "the villages have found solutions at food gathering problems, surviving in a hostile world, reproducing and finding a simple pleasure in their culture, most times this solutions have proved to be incredibly stabile, as they have functioned without many changes for centuries, even millennia."¹⁰.

Of course there is no need to understand that, in natural communities, the exchange phenomenon is not present, we have to say that it becomes secondary to production and consumption. Finding this relativity oblige us to talk, also in this case, about the existence of an early market economy which includes daily changes, the local

traffic or the one on small distances, such as wheat or wood route heading to the neighboring village, was nothing else than "a transparent and unsurprising trade, about which everyone knows what it depends on and how it will end, and those benefits can be approximated and always measured"¹¹. We are talking here about a trade whose first agents are represented only by the producer (either peasant or craftsman) and by the client itself, a primitive trade which removes the autarky's¹² danger from the core of natural economy.

Built only on the work of some groups that intend just to satisfy their needs of consumption, *Gemeinschaft's* economy is different from *Gesellschaft's* one and gains notable features. One of them is that inside of it the proper length of exploitation is limited to the use of labor with maximum of advantage. Later, the producers are mobilized to obtain the maximum of income per unit of work without suffering the compulsion of a lower limit (but humble to a relatively superior limit), while their objective is to satisfy the family consumption needs and not at all to cover the expenses through a total income.

Another essential feature of *Gesellschaft's* economy comes from the fact that, regarding the problem of work's technical level, the agents of natural economy do not pursue to decrease the cost price investing in more advanced techniques, they want just to ease and better use family work. It is interesting to observe the fact that, in the economy of traditional communities we discover another concept about

benefit than in the economy of advanced societies, but it is also a certain misunderstanding and opacity regarding the economical category of interest, common in advanced societies: the income of a house from a traditional community is an income per unit of work expressed in natural units and not a net income expressed in currency.

Among these natural units, the one that has the highest value in Gemeinschaft's economy is the land one¹³, value which increases or decreases depending on the density of population or on the needs of every community farm. But if the land represents the central value in traditional economies, it is also called a determinant factor, necessary to establish the social hierarchy and stratification having a feudal character: it is its high value that is linked to the land binding problem of community producers. So, it is obvious that unlike the manner of social stratification and hierarchy proper to Gesellschaft, where being member of a class or the prestige is a decisive criteria of social power, this role in natural communities is awarded to the amount of financial belongings an agent has.

But the most important argument that makes us believe that the exchange phase is the decisive one to transform the communities into societies is the one coming from the observation of huge changes and imbalances that its intensification brings into the conservation of community life. We are talking about the transformations that have at their origin the first and most important product of the economical impulse of

exchange, responsible for what Marx was calling the circulation sphere: market setting.

It is true that the market is not an entirely absent institution in natural communities: in most of these works an elementary, direct, transparent, naturally supervised, protected from profiteering and fraud¹⁴ market, where the immediate exchange is practiced (the also called *Auge - in-Auge Handel*), but – a thing worth mentioning – is a market with small, intermittent and occasionally character. Here everything is sold, immediately paid, without mediation of any credit.

However, the multiplication, development, specialization and turning this markets into permanent ones leads to the appearance of a genuine market economy, the true origin of Gesellschaft and the first cause of the regress of community life. Place of the opening to the world and meeting with the others, environment to establish the demand and the supply, this economy market will become shortly a genuine natural centre of the social life¹⁵. It will lead to an unprecedented specialization and division of work and, at the same time, to the building of a pronounced hierarchical order inside of it, including both the lower jobs (porters, craftsmen, cashiers, brokers) and the upper ones (moneylenders, bankers, owners, industrial entrepreneurs or large merchants). Indeed, the markets will lead through the progress and diversification of consumption, to the mandatory division of labor and formation of public hierarchy, and also, through favoring the

accumulations of power and the political needs to organize them, will crucially contribute to the actual appearance of state. Thanks to them, the urban life will be born and will increase, and also we will witness to an unruly acceleration of the rhythm and tension in daily existence.

Standing at the origin of currency¹⁶, which is the most powerful of tools and with their help entering and affecting the whole mechanism of the *Gemeinschaft's* economical and social relations, the market can be considered, as F. Braudel calls it, "a drama that evolves in leaps, both in old countries accustomed with its presence and in the ones in which this presence manifests without them becoming, immediately, on the whole, aware of the phenomenon." Indeed, every *Gemeinschaft* that opens to currency and monetary economy gradually loses the balance and the traditional configuration and becomes, in time, through the vital forces that are released, a *Gesellschaft*. Deeply entering in the economical mechanism's substrates, both social and political ones, through gradual replacement of swap, the currency becomes a real sign of the all activity developed inside of a society, reaching, in the end, to be mixed up with the wealth of a society¹⁷.

But the currency is not only a sign of *Gesellschaft's* life, it is, equally, an incentive of the movement of goods inside of it and one of the most important causes of market dynamism. Easing the changes, the currency makes everything to pass through the market. This earthly purgatory of the market and

currency, one that no one and nothing can avoid is, at the same time, a process of man's forced release of its strong relations with the *Gemeinschaft's* traditional value, the earth. As a result of this fact, the old economy of the traditional communities, based on the simple production, will be replaced, in time, by the *Gesellschaft's* economy, based on consumption.

Indeed, *Gesellschaft's* economy needs both the preexistence of a significant number of people released from their land and the rural-community property associated with it, men without their own means of production and existence and in need to sell their work force. We are talking here about a new type of man, one who was made free from his land and still deprived of his liberty, an uprooted man, the consumer itself¹⁸. Forced to adapt the dynamic world of currency and market, the *Gesellschaft's* man is obliged to integrate in the specialized and hierarchic universe of market economy. So, as he misses more his own possibilities of production and also the power to withdraw from the consumption in order to raise a part of the production, he will sit at the ground of the social-economical hierarchy and will be in need to specialize more in work. That is why in market economy the fragmentation process of economical functions still manifests more at the beginning of the base and less at the top, where the important merchant never limits at one activity, having the possibility to be, depending on the situation, either industrial contractor, farmer, insurer, or

banker¹⁹. So, the capital accumulation process requires – with one exception²⁰, despite of the expectations- the transition from specialization to non-specialization, meaning the transition from a job and a business depending on the competence of others to an activity that requires only your competence.

But the currency and the market are not responsible only for the regression of community life, but also, in equal measure, for an enlargement of the man's manifestation space, for the development of the social, economical and political mechanisms of the *Gesellschaft* in which he lives, outside of the old territories of natural community. Made free from the land and submit to the need of circulation, *Gesellschaft's* uprooted man is constrained sooner or later to learn those virtues which help him to survive in the new situation: mobility and adaptability. But he will gain these ones not only by knowing the realities from his own local community or through the intensification of the relations with members of the ensemble that he is a part of, but, most of all, through the experience of the links with foreign communities or societies. The enlargement of the currency and market manifestation space, meaning the man's experience space, the also called *Weltwirtschaft* or, how F. Braudel was calling it "of economies-universe", specific to *Gesellschaft* and decisive to understand the manner of appearance of the third and more advanced societal form, the voluntary community, will depend on the growth of the need to obtain this

virtues and to intensify the economical impulse of exchange

But what does *Weltwirtschaft* really mean? First it means an economy: 1. what works and develops relatively slowly in its own space, limited by the borders of another *Weltwirtschaft*; 2) an economy which develops around an urban nucleus (dominant city) with lot of economical and political power; 3) an economy which is an concentrated amount and hierarchy structured on areas and particular economies, either poor ones situated in the suburbs, or less poor and situated near the center. Eventually it means an economy whose function is cultural conditioned and determined. The last of the *Weltwirtschaft's* features proves to be the most important because the understanding of the first three depends of it. First, the borders of the universe – economy are, in fact, cultural borders, in their sphere entering only the economies of the societies that co exist the same tables of cultural values.

It is true that, in universe-economy, representing the final product of *Gesellschaft*, the principle of association is obviously a cultural one (religious, ideological and civilization one) and the cultural identity represents the main factor according to which the association or exclusion sphere inside *Weltwirtschaft* is established. But we are not talking here about the cultural identity as a determinant factor recently appeared in the history of humanity, as we can read in S.P. Huntington²¹, but as an old factor, appeared simultaneously with

the man. This fact is easy to understand as long as we establish that the human culture itself and its inner identifying acts work and rely from the beginning on the highest of the thought and association laws of functioning, the principle of identity ($A=A$) - like the phenomenon of difference - is not anything else than the synthetic product of the meeting between the sphere that the principle in question operates with, and what we can find outside his content.

If the culture cannot function outside the identity (through which the associations are made), and can't develop without difference (through which the associations are determined and become deeper), then the cultural evolution cannot be anything else than the effect more or less complex of enlargement of the sphere's content that the principle of identity operates with inside this culture. The more general this content is, the larger the identity's principle sphere of applicability is. So, if inside the *Gemeinschaft* the sphere is reduced to the instinctive unit of blood and land, inside the *Gesellschaft* it becomes bigger reaching, depending on the degree, at a larger unit, reflected as a religious, ideological or educational one.

The sphere of cultural identity is not affected only by the phenomenon of extend and generality through which it becomes more and more comprehensive - phenomenon at whose origin the economical impulse of trade plays an important part²² - but, at the same time, also by the phenomenon of generality and expansion of its influence inside the collective mind, including the lowest

level of the society. But although the two phenomena are concomitant, they are not at all synchronous, this because the *Gesellschaft's* cultural evolution is marked by a relative and inevitable break between the cultural level of its intellectual elite and the majority of its members, rift that generates a historic parallelism and an increasing dysfunction among the agents of the two layers.

We understand now why the *Weltwirtschaft's* borders vary according to the cultural evolution of *Gesellschaft*, evolution that depends of the extent and generality of the sphere of cultural identity that it is based on. This enlargement of the sphere of cultural identity, although it is organized and financed by the big urban centers around which the universe - economy develops, it isn't necessarily their product²³.

On the contrary, the privilege of the enlargement of sphere of cultural identity rather is a characteristics of the big cities, although inside the universe - economies not dot have a central part which can convert them into complex laboratories of science and technique responsible for generalization but not for the universalisation of cultural identities, they still have an advanced place inside it. Yet, their part do not allow them to be seated at the borders of the universe-economies. This for the simple fact that the border regions - peripheral ones - of *Weltwirtschaft*, despite of their position which promotes the possibility of the contact with other cultures and civilizations, appear as areas situated outside the exchanges and mixtures like sparsely animated and inactive

ones. If "the center, the heart, gathers what is more advanced and more diverse and the next ring has only a part of this advantages although it participates in them, the periphery is huge but less populated and represents, on the contrary, the archaism, the return and easy exploitation by the others"²⁴. But this inequality of cultural and economical power registered by the center and by the border regions of universe – economy is doubled by an inequality of political power: if in the central areas the state, using its force of market entering that it has, succeeds in covering the whole social space and to become a powerful, dynamic and aggressive institution both inside and outside, in the border regions due to the lack of economical resources, it will have a weak power of entering and also a weak effect on the organization of the society.

The fact that in the peripheral areas of *Weltwirtschaft* the state does not succeed to naturally organize the society through the resources of market will lead to the appearance of a lot of shortcomings: 1. maintaining of a narrow sphere of *Gesellschaft's* cultural identity; 2. the preservation of the traditional relations of *Gemeinschaft's* life (from the social-economical ones to the political and cultural ones); 3. the incapacity to control and satisfy the social and economical impulses caused and stimulated from the outside by the goods spread at the periphery of universe-economy by its nucleus, impulses that will become, through their blind intensification, one of the deepest causes of pitching and crises of *Gesellschaft's* life; 4. the

intensification of the need of power among the majority of people and its ruling in front of economical and social need of *Gemeinschaft* : the appearance of the so called power rush; 5. the appearance, on the one side of despotic, authoritarian and oligarchic states and, on the other side of the founding, at their borders, of a paternalistic, blazed and torn inside society, incapable to wake up and develop its inner will.

This is why, in the life of *Gesellschaft* the gaining of the experience and exchanges with foreign societies or communities cannot be done in the peripheral areas of *Weltwirtschaft*, but inside of its central nucleus, the only one of the areas opened to the meeting with the abroad. Yet, if these *Weltwirtschaft's* areas of the suburbs, due to the community mentality, are weakly influenced from the economical point of view and less opened to the exchange with the abroad, (usually affected by the narrow cultural identity, not capable to integrate the difference), they are strongly cultural reactive and prone to conflict. Obviously that this kind of experience of abroad, like the one received inside the central area of universe-economy is not an authentic and satisfactory one. On the contrary: it is necessary that this experience of difference, typical to the central nucleus of the universe-economy be related also by the integration inside the sphere of cultural identity specific to the cultural centers of *Weltwirtschafts*, of what it is foreign, and by the reevaluation and the enlargement of this sphere.

What derives from here? A very slow and hard inner and qualitative evolution of *Gesellschaft* and also a convert of it in a true *Voluntary Community*, as we have already said to a form of social cohabitation appeared between the people that benefit of a high degree of knowledge of the reality inside which they live, mobilized by a powerful feeling of communion and social equality, and which posses not only the capacity of realizing and understanding the purpose of the voluntary participation and collaboration in the practical activities with immediate character or at the others with mediate character (the cultural ones) necessary to a collectivity having also the natural power of concretely getting involved in their development.

So, we are speaking of a new type of social unit in which are consciously found and recovered, inside superior synthesis developed at cultural level and operated inside the common mental with the help of inner knowledge, voluntary and common action, all these features and specific virtues of *Gemeinschaft*, that the societies have lost along their historical evolution generated by the economical impulses of the man and directed by the rules of the market economy: the natural, unitary, organic, spontaneous and creative of human life, the feeling of equality and solidarity inside it, next to some new features that the human existence has won during its evolution, such as mobility, adaptability and freedom. We are talking of a kind of social unit which's nature prevents its appearance in the suburbs areas of

Weltwirtschaft, and makes of it a new form of social life specific to urban nucleus of universe-economies.

This is why we do not have to mix up *Freiwillige Gemeinschaft* with the description of *Gesellschaft* in its last stages of evolution, the ones of the industrialist revolution, democratic and disciplinary, this despite of some similarities existent between them that confess the real relationship and historical conditioning through both are bound.

Indeed, the cultural fashion of individual autonomy, of the duty and auto – constraint of the man to himself, fashion built on a true cult of free and arbitrary will (*Willkur*) specific to *Gesellschaft*, inside which the will is conditioned by the only capable force to face “the anarchy of egotistic tendencies, unproductive dispersion of the spirits, lost of energy and harmful behaviors generalization”²⁵ appeared after the life dispersion in traditional communities, although related to the fashion of autonomy, initiative and personal development, specific to *Freiwillige Gemeinschaft*, is different from this one: in the first case we deal with a cult of pure will which has “like scope the production of an uniform human being, disciplined and useful to the world, who uses his potential at maximum adapting at the constructivist and rational conquest of future”²⁶, and in the second case, with a cult of knowing the uncertain reality that we live in, of forming each person in virtue of the dynamic and complexity of these reality, and, most of all, with a cult of creative implication inside it²⁷.

But we could be asked: why inside of voluntary communities we assist at a true regress of will cult and inside the central nucleus of Weltwirtschaft we can speak of a total decommissioning of it, can we still attribute to these communities the specific feature of being voluntary? Without question that this objection would be truly built if we could recognize only a certain subtle change of significance that the will concept suffers it inside the Freiwillige Gemeinschaft culture. What are we really talking about is this: if inside the Gesellschaft the will is understood as blind faculty and reactivated by self-control and by the fight against individual weakness, inside of Voluntary Communities it gets a new meaning, of trade of personal autonomy, lighted mobile and creator of human free intents. It stops having a negative and binding part because it gets, on the contrary, a creative and affirmative one: inside voluntary communities the bad-will is replaced with the goodness, the voluntary universally imperative and unconditioned with volunteer²⁸. This subtle change of significance happened in the mental society, which coincides with the phase of transition from the Gesellschaft to Freiwillige Gemeinschaft, has at its origins a few phenomena that help us understand the profile of this last type of social unit. The most significant of these is the appearance of a true crises of centralized state as the one of collapse of the big political projects incapable to control the big poverty that themselves have

maintained. It was necessary the appearance of a civil society (charity associations, non-governmental, private institutions), to decentralize the state in a saving way, to unsmooth the Gesellschaft and straighten the big and long effects of the crises appeared in human life once with the disintegration of traditional communities.

The generalization and intensification of these changes appeared inside Gesellschaft lead to the collapse of belief into the fact that "everything is politically solved" and so to the appearance of a new human attitude towards himself and his own kind, one in which he reconciles more or less with a part of his egotism needs, with the humanistic ideals of freedom, equality and solidarity specific to community life that he feels like being a part of it.

Once with the appearance of Freiwillige Gemeinschaft we witness, on one way to the decrease of citizen interest for the political-ideological commitments, and, on the other hand to the increase of their mood to act responsibly in the society, but, beyond any obligation, starting from the common needs, but only to personal develop them.

This is, shortly, a description of the three social units become traditional in social sciences, and, where is necessarily, a fast passing in review of the way in which function these border regions. We trust that, far from having a satisfactory form, in the future it could be used as a ground for detailed researches.

Notes:

¹ Talcott Parsons, *Sociological theory and modern society*, Free Press, New York, 1967

² Ferdinand Tonnies, *Gemeinschaft und Gesellschaft*, 1887, of whose subtitle, at the original text appeared in 1880 in "Kantstudien", is "Theorie der Kulturalphilosophie", and at the edition from 1912 is "Grundbegriffe der reinen Soziologie" ("Fundamental concepts of pure sociology")

³ Max Scheler, *Nature et formes de la sympathie. Contribution a l'étude des lois de la vie affective*, ("Nature and forms of the sympathy Contribution to the study of pleasure and affective life."), Payot, Paris, 1971

⁴ Eugeniu Sperantia, *Introducere in sociologie* ("Introduction into sociology"), "The Romanian Book" Typography, Cluj, 1939, page 374

⁵ Herbert Spencer, *Les Premiers principes*, ("The first principles") Alfred Costes, Paris, 1920, p. 355 - "The most specific idea of the evolution that we are reaching now is this: the evolution is the change of an indefinite and incoherent homogeneity into a definite and coherent one that accompanies the dissipation of movement and the integration of the matter[...]without neglecting the conservation and the redistribution of the movement that produces in the same time"

⁶ Alfred Adler, *Cunoasterea omului*, ("Knowing the human being") IRI Publishing, Bucharest, 1996, p. 51: - "The psychic is the most intimate relationship with the free movement. [...] Results that in the development of mental life must be included everything regarding to movement, what it can be related to the difficulties of a move and the psychical life it is called to elaborate forecasts, to gain experience, to develop a memory, by making them useful for the dynamic practice of the existence."

⁷ Karl Marx, *Opere*, ("Works") vol 1, Politic Publishing, Bucharest, 1964: - "A

society cannot stop producing like it cannot stop consuming."

⁸ Alfred Adler, *Op.cit*, p. 52 - "We can not imagine an isolated psychical life, only one linked to what surrounds it, receiving the excitations coming from outside and answering in a way or another, having the necessary forces and possibilities to assure the organization, in battle or in alliance with the environment in order to guarantee its existence."

⁹ H.H. Stahl, *Contributii la studiul satelor devalmase romanesti*, ("Contribution to the study of Romanian common villages"), vol 1, Publishing of the Academy, Bucharest, 1958, p. 223 - "The theoretical scheme according to which the human technology would evolve from the harvest of nature to the growth of cattle, and from here to the agriculture is valid only in general lines, like a schematic simplification of social history of the ensemble of the human societies. In special the classification of the societies into exclusively pastoral ones or agricultural ones doesn't have to be interpreted as a mandatory dilemma, in front of which everybody analyze a certain society. It is possible that the terms of this dilemma to be fake, the nation being not exclusively agriculture or pastoral but both in the same time."

¹⁰ Daniel Chirot, *Societati in schimbare*, ("Changing societies"), Athens Publishing, Bucharest, 1996, p.79

¹¹ Fernand Braudel, *Dinamica capitalismului*, ("The dynamic of capitalism"), Corint Publishing, Bucharest, 2002, p. 47

¹² Mircea Vulcanescu, *Problemele sociologice ale satului romanesc*, ("Sociological problems of the Romanian village"), Eminescu Publishing, 1997, p. 113 - "At the level of traditional economies we see in the community life a true independence of the peasant's houses due to the interchanges of land, work, inventory and products as also a number of uses in common of pounds, forests, cars and tools."

¹³ "The fact is explainable by the finding that the domestic economy of traditional communities is all adapted and obedient to the physical and geographical conditions, among them the soil and climate being the most influent ones."

¹⁴ Boileau, *Le livre des metiers*, ("The table of domains"), Depping Publishing, 1837, p.34 – 35 - "Because it is right that these goods to come in the heart of the fair and in that place to see if they are good or not [...] because of this things [...] that are sold in the heart of the fair everyone can take, either poor or rich")

¹⁵ Fernand Braudel, *Jocurile schimbului*, ("The games of exchange"), Meridians Publishing, Bucharest, 1985, p.17 - "Here you can see your knowledge, you make a deal, here is where the curses start, here is where you can cross from the word to the fight, here the incidents are born, then the processes where complications develop, here the watch comes certainly in a spectacular but careful way, through here pass the political and all kind of news."

¹⁶ William Petty, in 1655, tells us that "the currency is only the fat of the politic body: too much harms the agility, less brings the disease."

¹⁷ For example in John Lock's work *Some Considerations on the Consequences of the Lowering of Interest and Raising the Value of Money*, the currency is equal with wealth.

¹⁸ C.G. Jung, *Puterea sufletului*, ("The power of the soul"), Anima Publishing, Bucharest, 1994, p.143 - "As a consequence of industrialization, large circles of people have been uprooted and piled in big centers. This form of existence with its mass psychology and its social dependence of the market fluctuations and salaries – give birth to an insecure, unstable and weak person. He ascertains that his life depends of the business' leaders and requires – fair or unfair – that this ones, at their turn, to let themselves ruled by the financial interests. He knows that, no matter how

conscientious he would work, it is possible to become in any minute the victim of some economical changes upon which he does not have not even the smallest control. It does not exist anything that he can rely on. More, the system of moral and political education has done everything to inoculate to each person a stupid spirit of obedience and also the faith that everything that he could ever want must come from upstairs, from the ones that rule. [...] The person's impression of being weak, even absent, is thus matched by an unprecedented outbreak of lust for power. We are talking among others about the rebellion of the ones without rights, the insatiable greed of the poor ones."

¹⁹ Fernand Braudel, *Dinamica Capitalismului*, ("The dynamic of the capitalism"), p. 52

²⁰ The only exception from the rule appears on the money trade's land and it concerns the bankers, who can be considered a specialized branches, only because of the general ignorance of nature.

²¹ Samuel P. Huntington, *Ciocnirea civilizatiilor si refacerea ordinii mondiale*, ("The conflict of civilizations and the restoration of the world's order"), Antet Publishing, Bucharest, 1997, p. 177

²² "The increased prominence of cultural identity is largely the result of the social-economical modernization at individual level, where the dislocation and alienation create the need of identity more and more significant at social level, where the intensified capacities and the power of the non-occidental societies stimulates the revitalization of the identity and indigenous culture."

²³ "For example, in the XIII, XVI, XVth century Florence and not Venice or Genoa, the centers of the continental trade of that time, represents the center of the European culture, also like in the XVIIIth century Paris, the capital of a country left behind from the economical

point of view, and not London, the true economical queen of that time, reunites the intellectual elite of Europe.”

²⁴ Fernand Braudel, *Timpul lumii*, (“The time of the world”), vol 1, Meridians Publishing, Bucharest, 1989, p. 37

²⁵ Gilles Lipovetsky, *Amurgul datoriei*, (“The twilight of debt”), Babel Publishing, Bucharest, 1996, p. 142

²⁶ Idem, p. 143

²⁷ Idem, p. 144 - “The polyvalent man, capable of recycling, adapting and innovating has replaced the introvert man; in the world of uncertainty and complexity needs multidimensional people, opened to change and communication. The instill of self - debts which are watching, among the others, to promote the voluntary, constant and disciplined man, do not correspond to the needs of post-industrial society”

²⁸ Idem, p. 165 - “The new individualism does not destroy the compassion and the will to help your neighbor, but join them to self-search”.

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3) Fernand Braudel, *Dinamica capitalismului*, Editura Corint, București, 2002

4) Fernand Braudel, *Jocurile schimbului*, Editura Meridiane, București, 1985

5) Daniel Chirot, *Societăți în schimbare*, Editura Athena, București, 1996

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POLITICS & RELIGION: BUILDING UNITY IN DIVERSITY

Zuhdi JASSER

Americanism vs. Islamism: A Personal Perspective

12th Annual Templeton Lecture on Religion and World Affairs
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My venturing into public discussions on the intersection between religion and politics is not something that I chose, but rather something I felt obliged to do after 9/11. Prior to then, I'd been dealing with many of the pathologies within the Muslim community, but as I began to see who was emerging as "spokespersons" for my faith after 9/11, I had to do something; hence the formation of the American Islamic Forum for Democracy.

More than six years after 9/11, we're starting to figure out that terrorism is just a tactic. The tactic has a goal, a mission, and a dream. Terrorism is simply a means to an end. The only way to defeat a tactic is either to defeat the source completely or to take away the dreams of the enablers. Those dreams, when they are wedded to religion, become the biggest liability for those of us who are embarrassed even talking about religion and politics. What greater incendiary mechanism could there be to manipulate Western society than to cover a fascistic dream in a faith that is a spiritual path for over a billion people? And what better way to insulate itself from criticism than to cover itself in a spiritual guise?

Non-Muslim and Muslim alike, Americans, guided by the Constitution and First Amendment, have always been protective of our faith. One of my heroes growing up was Thomas Jefferson. The Virginia Statute on Religious Freedom, drafted by Thomas Jefferson, engrained in our society a respect for the free practice of religion. Jefferson

said, "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no God. It neither picks my pocket nor breaks my leg." This idea that a person's relationship with God is his or her own and not the role of government to impose upon citizens is one of the main quarrels that the Islamists and those who ideologically feed the terrorists have with the West.

Unfortunately, many Americans have forgotten that America was founded by people who were escaping religious persecution. America is not just a flag, it's not just our media, MTV, rock and roll, or blue jeans. It's an idea of religious and political freedom and the freedom to be and achieve what you want, with equal access to everyone. That access is not dictated by wealth, religion, or any other immutable characteristic. That is what the Islamists fear the most.

"Islamist" does not necessarily mean only terrorists, and the simple condemnation of terror does not make someone necessarily compatible with American and Western ideals. Condemning terror—the targeting of women, children, noncombatants and non-uniformed people for the achievement of political ends—simply brings one to the table of humanity.

The root cause of terrorism is the dreams of the political Islamic state, and we need to understand what that state is. It can be either the fascistic state that believes in the totalitarian or authoritarian imposition of Islamic law throughout society or the

democratic Islamic state, which believes in parliaments, elections, and discourse and debate. These two different types of government share the identification of being an Islamic state because the source of law is the same: the Quran and the tradition, or *sunnah*, of the Prophet.

The *sunnah* guide my personal life—my last will and testament, my marriage, our marital contract. But that's something we chose in our own home. To transfer that into government gives clerics exclusive access to law, legislation, and public and legal discourse. If non-clerics want to gain access, they have to become schooled in *sharia* law. As important as the West's initiative to democratize the Middle East is, we're missing the boat if we think we're going to solve the problems in the Middle East by simply getting those countries to have elections and parliaments. We need to bring forth the ideas of freedom, liberty, and respect for individuals, sometimes over the community. That last principle is one that came in the West's Enlightenment.

Until Muslims understand that their faith is not threatened by the Enlightenment and respect for the individual, we cannot win this war.

Sometimes when we present these ideas, we present them behind the American flag. But being patriotic doesn't necessarily mean that someone is looking out for the best interests of freedom and liberty in America. Islamic organizations that purport to represent Muslims may have a vision for America that simply takes our flag and adds a little crescent, turning it into an Islamic

state. Some in the Muslim community may call this fear-mongering or exaggeration, but that Islamist community should not be allowed to circle the wagons and rally themselves behind victimization. Rather, they should be engaged on these ideas of the role of religious law in public life. For while the vast majority of Muslims have assimilated and reformed their own practices, by virtue of the way that they live in America, ideologically they have often been given the freedom but not the means, the task, and the challenge to understand what it is that they are living day to day.

As a result, most of the texts on Islamic bookshelves are pre-14th century. Most of the Islamic texts on law, penal codes, civil codes, etc., are based on 14th century law at best—it could be 11th or 12th century. Hence the corporal punishment, the severing of hands for theft, the stoning of women for violation of marital laws, that is still part of Saudi law. This to Westerners is barbaric, but the religious law hasn't been reformed or advanced to bring it into the 21st century.

One of the primary problems with Islamic reformation issues is the clerical leadership and the imams. Most Muslim families would be dismayed if their son or daughter wanted to study to become a cleric or imam, which is not of the same value to a family as studying medicine, law, or engineering. So the hold upon religious, theological discussion of jurisprudence in faith has been given over to less than the intellectuals in society.

My own family escaped Syria to

come to America for ideological, not economic, reasons. After the French pulled out in 1946, my grandfather had tried to be part of the democratization of Syria, which did have democracy for a few years. Then unfortunately, as we saw in many Middle Eastern countries, coup after coup occurred from the early 1950s until finally the last military coup led by the Baathists which ultimately brought Hafez al-Assad to power around 1970. The secular dictatorships are deeply wedded to radical Islam and the Islamist threat in the world. They may seem to be diametrically opposed entities, but the evolution and history of radical Islamist or theocratic movements has been an equal and opposite reaction to the dictatorships in the Middle East— whether they are the monarchy in Saudi Arabia and the Wahhabis who came out of them, or the dictatorships in Egypt and Syria, for the Muslim Brotherhood, which also fed Hamas in Israel. This is what happened in Iran, with the Shah initially in power, which empowered the radical Islamist movement. All of this is very symmetrical, and that's why we will not be able to bring Islam into modernity without the removal of many of these governments.

We do not have to do this militarily. We changed Eastern Europe without invading any of those countries and defeated communism without invading Russia. But we need to turn our attention to the dissidents, to those who believe in freedom and liberty, not only democracy. If we align ourselves only with democratic movements, we may

end up ushering in parliaments based on Quranic law and facilitating the establishment of Islamic states that may in the short term be more peaceful to us from a strategic standpoint, but in the long term could end up dividing the world into a triangular fashion of China, Islamic states, and the secular Western states.

The conflict is over the correct source of law—Is it the Constitution and natural law or *sharia*; the lay individual or the clerics, or the individual vs. tribalism or Muslim collectivism?

I've tried to go to prayer every Friday, I attend the Ramadan holiday prayers and have probably 70-80 percent of the time found mosques that were not solely about spirituality or about teaching children morality and character, integrity, service, and humility, but rather about politics— domestic and foreign policy, issues that I believe have nothing to do with my relationship with God but rather concern things on this earth. My response in many of the debates I've tried to no avail to have with imams is to tell them that if God wanted us to discuss these things, the Quran would have been filled with injunctions about how to run government. But there's nothing in the Quran about how we should run government. Yet they will take passages that do talk about war, for example, and transpose them out of context, which I believe is about history far more than it is about religion.

Back to my story. Once in the early 1990s, on leave from the military, I went to an Islamic medical

association meeting. One of the only other Muslim medical officers was the head of endocrinology at Bethesda. He and I were going to present a paper on hormonal regulation and some endocrine issues at the Islamic Medical Association, which was being held in conjunction with the Islamic Society of North America annual conference. I had never been to a meeting of ISNA, the largest Muslim organization in America. Its annual meetings are attended by 15,000-30,000 Muslim activists. The keynote address was given by Siraj Wahhaj, Imam of Al-Taqwa Mosque in Brooklyn, New York, who was originally with the Nation of Islam and then converted to Sunni Islam. I was pulled into listening to this magnetic speaker, until he began talking about the constitution. He picked up the Quran and said "You know, I was on an airplane and imagine, a Jewish passenger sitting next to me asked me about the Quran I was reading—if Muslims became a majority in America, would we replace the U.S. constitution with the Quran." He laughed and said, "Can you imagine someone wondering if a document made by humans would be superior to a document made by God?"

I got lightheaded, I sat down, and after he was done I went to the Q-and-A microphone and said, "I'm not sure if you understand American law, but you have just violated the Sedition Act as I understand it. You're free to disagree with foreign and domestic policy, but you cannot talk about the overthrow of the U.S. constitution and its replacement by another document." I encouraged

other military personnel in the audience to leave, because they were violating their oath to this country. It was in some ways traumatic for me. I had just joined the Navy. But yet they felt that I was overreacting. I feel that it is not overreaction. There are certain things we have to know as a community and as a nation that take priority over other things.

A German judge recently gave a man the right to beat his wife because the husband maintained that it was out of his religious law that he is allowed to practice domestic abuse on his wife. That's not the Islam I was taught, but if we become a society where once someone raises the flag of religion we stop critiquing it and stop holding him accountable to values that we share as a community, that is the day we begin down the slope of defeat.

As much as some Muslims could say I am mischaracterizing Islam or am too harsh, I think it is important to have the debate. Five years after the ISNA meeting, I met my wife and her family in Cleveland and told them that story. They said "We were there! We heard you say that." Yet nobody did anything. Nobody stood up and agreed with me, nobody said "We may have a problem." That same imam then became an alleged unindicted coconspirator in the 1993 World Trade Center bombing and later, in 1995, testified in defense of Omar Abdel-Rahman.

There's a tribal mentality; somehow individuals want to create and advance the ideas of the tribal leaders. The Islamic community has reverted back to pre-Islamic Arabia, to a tribalism that has lost its values.

Any time you take an idea in which the ends justify the means, it is basically corruption. Alija Izetbegovic, the president of Bosnia-Herzegovina, said that he was never more Muslim than when he was in solitary confinement under Marshal Tito for 15 years. A Muslim can hear that and think "My rights and freedoms in society are not related to my being Muslim. I have more time to sit and talk to God and be closer to God when I have absolutely no rights and I'm sitting in solitary confinement. Therefore my religion and my piety are unrelated to this earth."

Actually, the idea that we should be selling—not on the U.S. station Al Hurrah, which actually gets very low ratings in Iraq, but on Al Jazeera, on Syrian TV—is that the way for individuals to be closest to God is to live in freedom. When you live in an environment where people around you are not fasting in Ramadan, where they are not praying five times a day, where I choose to separate from the group and go pray on my own, not in the middle of a gate at the airport demanding for everyone to see me but actually on my own, that actually is more of a demonstration to the God of Abraham, that I'm choosing to do that of my own free will. Thus, the day of judgment, if you believe in a day of reckoning, has more meaning to God. That is to me the message of our founding fathers. The most pious nations and individuals are those who can freely decide whether to act or to practice their faith without coercion from government.

Muslims will say, this is ridiculous,

you don't want religion to inspire what we do? There's this equivalency where they then give me ten other religious lobbies in America that supposedly mix religion and politics. I'll say that there's absolutely no comparison, there's no moral equivalency between religiously inspired political groups and Islamist groups that have a constructive law as a goal—the nucleus of which is completely different from one based on a human document. The key is that we hold Muslims accountable to what they view the concept of law would be if they became a majority. One finds few or no Christian, Buddhist or Hindu groups who want to bring, e.g., canon law or religious jurisprudence into American jurisprudence. Yet they may be inspired and empowered by their faith, which is very different.

I would then remember de Tocqueville, who said that military dictatorships do not need God, but democracies and lands based on freedom do. Because as you know, in the Middle East, and we see this in Iraq, when countries have lost their values after decades of dictatorship and become corrupt, there's such a loss of values that corruption has guided and taken over that society making freedom difficult to take hold.

As a result, you have wanton destruction and lawlessness. The only thing that would control that society is some form of martial law. So you need to transition states from oppression to freedom, but that transition needs to be inculcated with values.

At the end of the day, if we believe that those values they're going to use

to drive their ideas are going to be based on morality, that morality has to come from somewhere. If it's not going to come from Islam, then we're going to have to convert over 1 billion people to another faith, and that's not going to work. So that source of values is going to have to be their faith of Islam, which we as Muslims believe is a message from the God of Abraham to Muslims. But that message has to be put in a way that's consistent with modernity and pluralism.

What can we do as a Western society within our community and what can we do, especially for non-Muslims and other organizations, to help this process along and move it along faster than the five hundred years of stagnancy that we've been under?

First, in our own societies, we need to be cautious about permitting parallel societies, parallel courts such as sharia courts where Muslims are given the "freedom" to set up their own legal court system. They would become an incubator for radical Islamism. Canada tried this, and the most vocal voice against sharia courts were Muslim women, even though they were told by the non-Muslims in Canada that "You don't have to, it's voluntary." Once you get swept into this, it's like fighting domestic violence in our own country. We must prevent the establishment of institutions that cater to that and allow the incubation.

Second, we see many examples like the taxicab drivers in Minneapolis who wanted to be separate from the society, not to

carry people who were carrying alcohol, to impose their values on the passengers they picked up. Some may say that making a lot out of these issues is an exaggeration—"you need to lighten up." But every opportunity I have to highlight examples, of what in medicine we would call pathognomonic symptoms, of the pathology of Islamism, I will exploit that. Because *they* are doing the same thing. They are exploiting victimization issues and politics to use what we have now been calling law-fare to get us distracted, to sue individuals who are the biggest threat to their ideas. So that we're all so busy fighting lawsuits such as the flying imams case (the six imams who filed suit against U.S. Airways in March 2007 for having been removed from a flight in November 2006 after behavior that many have called provocative) to distract us, to continue to divide society between Muslim and non-Muslim and to allow the continued inculcation of this Islamist ideology via Muslim collectivism.

A good example is Carver Elementary School in San Diego, which because of the third of its students who are Muslim wanted to move the lunchtime from 12:30 to 1:30 pm so that they could have their prayers. I wrote a column and on CNN talked about the fact that many of us grew up in public elementary schools praying and doing our own practices of faith without asking for the entire school to change its time schedule. You can step away during a break and practice your faith. Certainly I would not want schools to prevent Muslims from praying, they

should be given the space to pray if they need it. Because that's a personal faith practice. But once that personal faith practice crosses the line into society and starts changing the schedule of the general society or changing the cost to general society to the taxpayers, as we saw with the footbath incidents where the University of Michigan was paying \$30,000 to install footbaths, that crosses the line of the founding principles of America. I don't have a problem with private funding for that if they need it, fine. But not from the taxpayers. For once it comes from the taxpayers, then they should have allotted \$30,000 for every other faith group in that university at the same time.

When I was growing up in the 1970s, I don't remember Muslims asking for any of these things. It has almost become a tool of self-segregation and separating Muslims from non-Muslims so that they can continue this issue of minority politics. It's becoming very potent and we have allowed it to take over the debate. It soaks up the bandwidth of American attention instead of allowing us to fight for freedom.

Islamic organizations today have only come to notoriety because of America's fear of terrorism. If terrorism disappeared tomorrow, nobody would care about footbaths, schedules in schools, etc. Focusing on those issues would be the same as if a patient came into my office with lung cancer and I spent my whole time focusing on their cholesterol, headaches, and every other issue except the cancer. The Muslim community for credibility needs to

start focusing most of its resources on the root cause of terrorism as a tactic, which is political Islam.

The methods of reform are manifold. First, engage the Muslim community on these issues, get informed about the difference between sharia law and constitutional law, and start to have discussion panels, not the interfaith, "kumbiyah" discussions that legitimize most Muslim communities' leaders.

I have Frank Gaffney, executive producer of the documentary *Islam vs. Islamists*, to thank for connecting me with Dr. John Templeton and others. After his film, originally scheduled as part of PBS' "America at a Crossroads," was pulled from that series, it was shown on Fox News a couple of weeks ago. Ahmed Shqairat, the imam who's one of my main Islamist adversaries in Phoenix, in that documentary alluded to me (though not by name), claiming that I'm a "liberal extremist". He went on to say that "people like me think we can somehow separate religion and politics and don't want to acknowledge that every Muslim wants to live in an Islamic state, under sharia law."

After the showing of the film locally, one interfaith celebration I knew of was cancelled in Phoenix. So people are starting to understand that there is a veneer of moderation from the Islamists. They know how to play the game outside the mosque, but these organizations are lacking on civil rights within their community. It's a corruption that needs to be exposed. Ultimately, these institutions will disappear

quickly once they start to be exposed to the regular American community that pays attention to hypocrisy.

So second, the Muslim community needs to be held accountable to its concept of *umma*. *Umma* is a word that is very prevalent in the Quran. It means "nation" or "community." When an imam talks about *umma*, in Arabic and in his sermons, it is a threatening concept, because you then wonder at what point does an American Muslim follow the needs of the Muslim nation vs. the needs of the American nation to which he or she is a citizen. The Muslim community needs to "de-*ummatize*" itself, to really restrict the mechanism by which the *umma* is invoked. I would personally limit it to our study of theology and learning about the Quran and scripture; to charity that obviously all of our faiths seek to give; to socialization, obviously marriage within the faith is something all of our faiths try to do; and then last facilitating our hajj, our pilgrimage, and other aspects of practice and spirituality including mosques and community worship.

Third, we need to change the dreams. The dreams of most Muslims today are still wedded, because they have come from oppression and dictatorships, to religion, because the mosque was the last institution where they had a little freedom of speech, as long as they didn't speak against their own government. That's why the Muslim Brotherhood took over the mosques in Syria, and why the Wahhabis were able to spread texts into most of the mosques in the world, at a cost of \$80 billion that they spent on spreading the radical

word of Wahhabism. They were able to inculcate this literature into a lot of mosques, under the guise of most of these dictatorships.

We need to change those dreams from dreams of the utopian caliphate or Islamic states that bring them supposedly Islamic freedom to dreams of Western, individual freedom, where access to government and society is open to all. Much of the leadership on this must come from Muslim business leaders, who can argue for the kind of education that is needed.

Next, help us establish institutions. The Western enlightenment happened with the establishment of enlightenment institutions, classically liberal institutions that queried the church and government and began to question authority.

Hold some litmus tests and standards for the Muslims you engage with organizationally. They need to recognize Israel as a state, to stand against radical Islamist groups by name, not by theory, tactic, or condemning terrorism, but by name—*Hamas*, *Al Qaeda* and other groups. If they don't have the moral courage to name the Saudis, the Syrian government, as an oppressive dictatorship, then you have to wonder where their allegiances are. These types of litmus tests are not being done enough even by our own government and the people they attach themselves to.

We need help in what I would call a *counter-jihad* that is still in its earliest, mitotic cell divisions. There are so many factors affecting the ability of Muslims to really contribute

and get involved. One is because of fear—moderates are actually the first to be attacked; because of tribalism, because of the lack of knowledge. There are probably more people in this room who understand sharia than in most of the Muslim groups I've spoken to. That's sad. It's because the reins of understanding intellectual theology in Islam are just given up by most Muslims.

I will conclude with another Jefferson quotation that talks about the patience with which revolutions happen. "The generation which commences a revolution rarely complete it. Habituated from their infancy to passive submission of body and mind to their kings and priests,

they are not qualified when called on to think and provide for themselves; and their inexperience, their ignorance and bigotry make them instruments often in the hands of the Bonapartes and Iturbides to defeat their own rights and purposes." (Thomas Jefferson to John Adams, 1823).

Jefferson was talking about our country's founding. He didn't end slavery, but Lincoln, who did decades later, probably said it best: "America is the world's last greatest hope for mankind." We have to remember the ideas America stands for, that there are millions of Muslims who came here because of those ideas, and if we tell them that Islam is the problem, we will not win the war.

POLITICS & RELIGION: BUILDING UNITY IN DIVERSITY

David FORTE

Islam's Trajectory

E-Notes
September 2006

David FORTE

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In March 2006, Abdul Rahman, an Afghan who converted to Christianity, was charged with apostasy because, in a custody dispute, his wife had reported him to the authorities as a Christian. Had he been found guilty, according to the Hanafi school of jurisprudence (which is the form of Sharia in Afghanistan), Rahman would have had three days in which to recant; if he maintained his Christian beliefs, he would have been executed. But after enormous international pressure the judge dismissed his case on the ground that Rahman may have been mentally unstable, and under the procedural rules of Sharia, one cannot be convicted of a Hadd offense—the crimes for which God has affixed a set penalty (adultery, fornication, false charge of adultery, drinking wine, apostasy, theft, and robbery)—unless he is mentally competent. Rahman is now safe in Italy, albeit with his identity hidden for fear of assassination.

This was a quick and easy way out of the problem, because everyone knew that once he was released in Afghanistan, Rahman would have been murdered, likely by his family, and under Islamic law there is no liability for killing an apostate. Knowing this, the Afghan parliament protested Italy's granting asylum to Rahman, thus robbing the people of Afghanistan of their opportunity for vigilante justice. Abdul Raouf, a moderate member of the Ulama (legal fraternity), who himself had suffered persecution under the Taliban, said "We will call on the people to pull him into pieces so there's nothing left." Another top

religious leader stated, "We must set an example, he must be hanged."¹¹ Ordinary Afghans agreed. To them, a conversion to Christianity was an affront that had to be avenged. One of Rahman's neighbors said "There is no way we're going to allow an Afghan to insult us by becoming Christian."¹² One resident of Kabul stated, "According to Islamic law, he should be sentenced to death because Christianity is forbidden in our land."¹³

There are in fact Christians in Afghanistan. They're a tiny minority, but they do number in the thousands. Virtually all of them were or are the offspring of converts from Islam. And so they fear. There is no public Christian church in Afghanistan; Christians must worship secretly in their homes or within the diplomatic compound. This is no Saudi Arabia; this is a country freed from a gross tyranny by an army from a Christian land. And now this is a democratic country in which Christians fear for their lives.

It is events like this that have begun to turn Americans against the notion of Islam as a religion worthy of respect. After 9/11, George Bush famously said "Islam is a religion of peace," and there is a strong moderate and spiritual strain in Islam that would affirm this. But Americans have seen so much going on in the name of Islam that their attitude toward it has shifted.

The constitution of Afghanistan stipulates that it shall abide by the UN Universal Declaration of Human Rights, which affirms that "everyone has the right to freedom of thought, conscience and religion. This right

includes freedom to change his religion or belief." But the Afghan constitution also says "No law can be contrary to the beliefs and provisions of the sacred religion of Islam." How can such a contradiction be negotiated?

There is a great mystery in Islam. Islam should have been the first civilization to have abandoned slavery; it was the last. Islam should have been the first to establish complete religious liberty; today, non-Muslims suffer egregious persecution in Muslim lands. Islam should have been the first to establish social equality for women. Instead, women who stray outside the family's code of behavior are murdered with impunity. Islam should have been the foremost civilization to observe the humanitarian laws of war, but its empires have been no different from others; some claim they have been worse. Today Muslims slaughter innocent civilians precisely because they are innocent.

The founder of every great religion sets its message off on a trajectory into the world that is carried through history. But the followers of religion, being human, inevitably deflect the trajectory from its original path. The Old Testament, especially in its prophetic literature, is to a large extent a narrative of a people being called back to the path set for them by God. The Protestant Reformation changed the trajectory of Christianity and itself set off a thousand attempts at righting the Reformation's trajectory. Catholicism's counterreformation, or as Catholics prefer to call it, the

Catholic Reformation, was a frank acknowledgment that the Church had strayed from the direction set for it by Christ. In fact, looking at modern times, John Paul II's pontificate was itself so historically seminal because it refocused the Church in the world on the trajectory first begun in the early church by Peter.

To understand a religion's sense of its identity, we must focus on its founding documents and traditions and on its developing sense of itself. We must get a hold of its animating ethos. The founding documents of Judaism, Christianity, and Islam have all been subjected to historical criticism. But for their adherents, they are real and truly derived from divinity. To understand a religion's place in history, therefore, we must appreciate how the faithful see their sacred documents. As observers, we must accept them in that sense as a historical given.

As we take the Quran, as most moderate educated Muslims interpret it, we find the following: Christians and Jews are respected as Abrahamic brothers in faith and will enjoy the favor of God on the last day. There is no compulsion in faith for any person. A person who abjures Islam will suffer God's disapproval, but may not be harmed in this world. Non-Muslims can practice their religion and receive protection upon the payment of tribute, the standard mechanism for a subject population in ancient imperial times.

In pre-Islamic Arabia, most women lived at the sufferance of their husbands and male relatives. Although some women achieved wealth on their own—Khadija,

Mohammed's first wife, was such a woman—most Arabian women could not inherit wealth, the bride price was given to the father, they could be divorced at will or kept unavailable to other men during a period after divorce, and they could be beaten with impunity. Mohammed took Arabian society as far as it could go in his time. Women are to be recognized as sui generis of the law; they may own their own property; they get to keep the dower, which the husband may not interfere with, even if he is indebted. Wives must be maintained according to their station. They cannot be abused. At most they can be physically chastised so long as there is no physical harm. And even that is not seen as the morally preferable option in Islam. Polygamy, unlimited before Mohammed, is limited to four wives, but only if each wife can be maintained equally. A man may not marry a second wife if he has fear of injustice to his first wife and every man, were he honest with himself, should fear that he might commit such an injustice.

Slavery has been the universal unexceptionable norm throughout human history until recent times. In the Quran, the slave must be well treated. Muslims cannot be enslaved by other Muslims after battle, for debt, or for any other reason. Another international norm at the time was universally observed by Christian armies, Muslim armies, and Persian armies: a soldier taken in battle can be killed, enslaved, let loose, or kept for ransom. There was no dissent to this proposition. The Muslims, however, were told in the Quran not to harm subject

populations, monks, or any innocent civilians. A child of a slave cannot be separated from its mother in Islam. Manumission is meritorious; it overcomes sin and is counted among the good deeds in the balance of life upon which attaining paradise is dependent. In Muslim moral theology, one attains paradise according to the balance of good deeds over bad deeds. There is no deathbed recantation. There can be a deathbed conversion that wipes out previous sins if one were not Muslim. But if one were a bad person all one's life, saying you're sorry on your deathbed is not going to do it. Islam has a sophisticated five-level sense of moral actions: there are some moral actions that are compulsory; others that are approved, that is, gain one moral credit; some actions are neutral; some are disapproved, what we call sins; and some are absolutely forbidden, which the state must proscribe. Manumission is approved. It gains a soul moral favor. But owning a slave is legal and morally neutral. It is permitted to enslave someone after a battle, but it is meritorious to manumit a slave.

So how did such a noble start come a cropper? How did tolerance become intolerance? How did protection become persecution? How did the dignity of women turn into indignity? How did limited war become massacre? It is not enough of an answer to say that there have always been bad Muslims and bad Christians and bad Jews. For the problem in Islam is that intolerance and indignity and the murder of a person because of his changed religious belief have gained

authoritative sanction from some quarters.

Three institutions have deflected the trajectory of Mohammed's original message: the law, the empire, and the tribe. Let us take apostasy as an example. The Quran condemns the apostate to damnation but imposes no earthly penalty. The death penalty arose later, in the law. It was the traditions of the Prophet, known as the Sunna, developed and codified later during a drive for the Islamicization of the early Islamic empire, that required putting the apostate to death. A primary tradition relied upon for this view attributes to Mohammed the statement, "Whoever changes his Islamic religion, kill him."

Most traditions, however, including the one just cited, inflict the death sentence because the apostate waged war on Islam. Indeed, the primary justification for the execution of the apostate is that in the early days of Islam, apostasy and treason were in fact synonymous. War was perennial in Arabia. It never stopped. To reject the leader of another tribe, to give up on a coalition, was in effect to go to war against him. There was no such thing as neutrality. There were truces, but there was never a permanent neutrality. It is reported, for example, that immediately after the death of Mohammed, many tribes apostatized. They said in effect, "The leader whom we were following is gone, so let's go back to our own leaders." And they rebelled against Muslim rule. The first caliph, Abu Bakr, ordered such rebels to be killed.

Many scholars argue that the

tradition that all apostates had to be killed had its origin during these wars of rebellion and not during Mohammed's time. In fact, many argue that these traditions in which Mohammed affirmed the killing of apostates were apocryphal, made up later to justify what the empire had been doing. In fact, most of these traditions do not have a sound *isnad*, or chain of authority. Muslims knew that there were tens of thousands of fabricated traditions in the 8th and 9th centuries during the ideological battles between the legalists and other parties in the Islamic empire. And so the method of authenticating what were sound traditions developed. Those traditions that could be regarded with authority possessed a clear, unbroken chain of transmission by reputable Muslims reaching back to the Prophet. In Islam, as in most ancient methods of adjudication, authority was the method of determining truth, not objective forensic evidence. If the witness were moral, the witness had to be believed. You can impugn the witness's character, but you don't impugn the testimony. The testimony is accepted. So if one could find a sound *isnad*, one had to accept its authority. (Of course, one could fabricate the transmissions as well as the substance of the tradition, but that problem was not, to my knowledge, systematically addressed in Islamic tradition.)

But there are breaks in some of the *isnads*. That tradition is then called weak, or not sound. Most, if not all, of the traditions regarding Mohammed's assertions of apostasy as a capital offense are either

apocryphal, according to Western and some Muslim scholars, or have weak *isnads* and need not be believed. In one of the most exhaustive studies of the classical sources of Islamic law, S.A. Rahman, a Pakistani jurist of renown, argued that all references in the Quran to apostasy tied retaliation to rebellion, not merely falling from faith. Rahman argued that most other verses and sound traditions indicate an undeviating view that changes in belief were left to God to punish, and that it was forbidden to compel any person to join or rejoin any religion.

Whatever the source for the sentence of apostasy, most jurists of the Sharia came to regard the crime as one of neither rebellion nor unbelief, but merely a falling away from Islam. They were, after all, religious judges, and they came up with these rules a century or two after Mohammed's death. And so the religious judge would import authoritative actions into a religious mold. No distinction was made between the apostate who converts to one of the protected religions and one who falls into polytheism or unbelief. All apostates were denominated as unbelievers. No connection with rebellion was required. All that was needed was some evidence of disbelief, and unless recantation occurred relatively quickly, death was imposed.

For the Maliki school, it was the act of falling away from the religion of Islam that mattered. The law had no regard for conversion from one non-Islamic faith to another. But for the more casuistical Shafii school, any

act of apostasy was fatal, even from say Judaism to Christianity.

As in other areas of Islamic law, probative evidence relies upon the bona fides of the witnesses more than upon the substance of the act that constitute apostasy. According to Abu Zakariyya Yahya Ibn Sharaf al-Nawawi (1233-78) of the Shafii school, "witnesses need not recount in all their details the facts that constitute apostasy; they may confine themselves to affirming that the guilty person is an apostate." The punishment for an apostate is death; traditionally by beheading, although crucifixion and immolation have also been employed. For some jurists, the apostate must be given a period of time in which to recant and return to Islam; most schools require that the apostate be exhorted to repent. But the Shia will not accept the recantation of an apostate who was born a Muslim. The Hanafi school recommends three days of imprisonment before execution, although neither the delay nor the requirement to try to dissuade the apostate before killing him is mandatory. The Maliki school (dominant in Egypt), which is normally stricter than the Hanafi school, will in this case allow up to ten days for recantation. Although the Hanafi school does not condemn the female apostate to death, jurists in the Maliki and Shafi schools do.

Under most schools of Islamic law (Hanafi, Maliki, Shafii, Hanbali, Shia Jaafari), the apostate is an outlaw. The Hanafis are explicit: any person killing an apostate is himself immune to prosecution and immune from retaliation. In addition, the apostate

loses all civil entitlement. His marriage becomes a nullity, and he has no rights to inherit. In 1995 in Egypt, for example, a court declared Nasr Abu Zeid, a professor of Arabic literature and Islamic studies at Cairo University, an apostate, and he and his wife had to flee to France. He and his wife escaped to France because they knew the fate of with the novelist Farag Fouda, whom the ulama of Al-Azhar university had declared to be an apostate. Certain that he was going to be assassinated, Fouda was in fact murdered in 1992. His killers announced "All we did was carry out the appropriate Islamic punishment in light of the accusation leveled by Al-Azhar's ulama."

Here is where the religious law can become pernicious. One of the most signal reforms of Mohammed was to get rid of self-help vengeance between the tribes. In seventh-century Arabia, if a member of one tribe were killed or harmed by a member of another tribe, the tribe of the victim could retaliate at will. This led to unending feuds. Mohammed decreed that there would no longer be retaliation allowed until the guilt of the malefactor was proven to an impartial third party. And then, retaliation was allowed only in the most egregious circumstances, where there was what we would call malice afore thought. In all other circumstances, there could only be compensation. Self-help was no longer allowed. This is a fundamental legal principle of any ordered society.

But the legal jurists, in turning apostasy from an act of treason to an act of unbelief, allowed self-help vengeance to return to Muslim

society. They undid one of the most important reforms of Mohammed. This has been filtered into the tribal culture that has always remained within Islam. The act of apostasy became an offense against the honor of the clan or the family. And since the law allowed acts of private vengeance in such cases, there was a return to the very kind of violent act that Mohammed originally decreed out of Muslim society.

Such a cultural practice leaves non-Muslims paralyzed. On a trip I made to a moderate Muslim country, I visited non-Muslim religious leaders and asked them what happens if a Muslim wishes to convert to Christianity. They were all upset by that question. One religious leader told me, "Well, there are many reasons why a man might want to convert to Christianity, none of them genuine. It might be a psychological reason, it might be he's unstable, etc." It is not just that it is politically embarrassing for a Christian leader that someone might want to become a Christian. If his family should find out, and he cannot be gotten out of the country, his family will kill him.

So apostasy has been brought into tribal cultures, which sadly to many Westerners seems to give the lie to the Quranic verse that there shall be no compulsion in religion. Such actions, in my view, distort the genuine heart of Islam. But it shows how far from the original principles the culture has come because of what the legal community did to it, what the empire's needs were, and how tribalism has distorted the religion's spiritual message.

Another example is the treatment

of religious minorities. When Mohammed conquered a religious minority, he gave them safe conduct and the right to continue their religious practices on payment of tribute. There was nothing unusual about that. Tribute was the normal method of acknowledgment of a superior ruler over an inferior people. Even during the middle period of the Islamic empire, when the Byzantine Empire had a brief resurgence, the caliph paid tribute to the Byzantine emperor. And then afterwards, the Byzantine Empire generally paid tribute to the caliph.

When the Islamic armies had first conquered Syria, the Holy Land, and Egypt, they came with no historic tradition of imperial rule. The first empire, after the four caliphs who succeeded Mohammed, was the Umayyad Empire (661-750), which had its capital in Damascus, a Byzantine city. At the start, the Muslim conquerors were in effect garrison troops. Virtually the entire population was non-Muslim. In fact, in the first few decades of the Umayyad Empire, the court language was Greek, not Arabic.

Now the Byzantines had already invented the idea of what to do to a heretical sect (short of persecution). They would permit it to exist on payment of tribute. The Umayyad Empire simply adopted the Byzantine practice. Then when the Abbasids took over from the Umayyads in 750, they moved their capital to Baghdad, which had been part of Persia. The Abbasids absorbed the Persian Sassanid imperial structure. The Persians, who were Zoroastrians, had, under the Parthians (till around

the year 250), been very tolerant of other religions. But under the Sassanids, who had succeeded the Parthians, deviant sects were persecuted. The Sassanids would allow some sects to exist, provided they paid a higher tax than did the Zoroastrians. This practice was absorbed by the Abbasid Empire and developed into the law of the *dhimmi* (Christians and Jews, but later including Zoroastrians, Hindus, Sabians). The practice was codified into the law that the jurists were developing at the same time. It was a contemporaneous development, not something from the Quran or from the Prophet.

The *dhimmi* were allowed to exist and practice their own religion on payment of a *jizyah*, which originally meant tribute but became much higher than the normal *zakat* that the Muslim had to pay. (The *zakat* itself was originally a voluntary tithing, but the empire turned it into a permanent tax, for empires know a good tax scheme when they see it.) This differentiation put great pressure upon the *dhimmi* to convert, because most people maintain their religion as a matter of social norm, not as a matter of personal belief. This differentiation between the *zakat* and the *jizyah*, as well as a later differentiation in property taxes, derived from the Sassanid Empire and became part of the Islamic rule regarding the *dhimmi*. But if you take Mohammed's original premise, which is that a subject religion can continue to practice so long as they recognize the legitimacy of the state over it, there's nothing contrary to that in modern

religious freedom.

With the dhimmi under imperial rule, ratified authoritatively by the Sharia, as a subject religion, tribalism adds the mental construct of intolerance of the other, and the results are the kind of massacres against dhimmis that have always punctuated Islamic history over the centuries. It need not have been so. But it became ratified by the law through the structure of empire and acted upon through the lens of tribalism.

As most moderate and reformist Muslims readily agree, none of these untoward practices of Muslim civilization are required by the spiritual message of the Prophet.

Looking past the present-day violence of radical Muslims, we see that, in the long run, the great struggle within Islam is to return to

its spiritual roots undeflected by empire, tribe, or rigid legal norms. In sum, moderate and reformist thinkers in Islam are seeking to return to the spiritual trajectory established by the Prophet.

Notes:

^[1] Daniel Cooney, "Afghan clerics want Christian convert killed," AP, Mar. 24, 2006.

^[2] Allan Wall, "Abdul Rahman and the 'New' Afghanistan," NewsMax.com, Mar. 24, 2006.

^[3] Sanjoy Majumder, "Mood hardens against Afghan convert," BBC, Mar. 24, 2006.

POLITICS & RELIGION: BUILDING UNITY IN DIVERSITY

Anca Parmena OLIMID¹

The politics of self-identity in the Balkans. The role of church-state relations in forming a new *com-union* *

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Abstract: *This paper aims at identifying the main talking points of the Balkans collective identity assuming the hypothesis that recognizes its character of a unique phenomenon. The orientation of the paper towards a broader context of scientific analysis allows the possibility of the avoidance of a political, historical, legal, and not least, religious determinism focused on the year 1989: the moment of the collapse of the "communist bloc". The working hypothesis starts from the observation attributing to the changes of the social practices. In this situation, the paper allows a detailed exposition of the theoretical and practical elements of the evolution and role of Church-State relations in forming a collective identity in the Balkans. As to the structural dimension of the political myth-making the analysis converges towards the acceptance of the following components: social practices and relations, national self-conscience and minority condition, religious freedom and migration experience.*

Keywords: *identity, Balkans, church, state, com-union.*

Theories:

There are *two extensive views* on the relationship between religion and politics of myth-making, providing both either as complementary to each other or as structural tied with Balkans' recent democratization.

Furthermore, from our data, we highlight two main domains of the present research:

(1) to outline the main understandings of "church", "state", "politics" and "religion" developed over the twenty years;

(2) to argue that, for our context, the most significant role for a rehabilitated search out of the moral and social order is a *new collective spirit*;

Integration Without Deconfessionalisation in the Balkans' religious arena

Over the last twenty years there has been an unusual proliferation of historical, religious and social literature, turning into a political issue, among the Balkan's public opinion as well as among academics, surrounding the source of collective identity construction.

The paper examines the relations between Church and State both at the theoretical level and through the experience of the Balkans in the context of the European integration.

The main purpose is to examine religion and the politics of myth-making with the regional collective identity as a "unique" unit of analysis for the Balkans.

The "nation-as-this and the people-as-one" theory

Nikos Chrysoloras (Department of Government and Hellenic Observatory, London School of Economics and Political Sciences) suggests that there are, in fact, two analytical theories surrounding the "construction of national identity" in the Balkans as particular way "perceiving reality"².

Nevertheless, this theory presents the *dual legitimization of the discourse analysis and ethno-symbolism*. Moreover, it differentiates "nation as a mode of conceiving the political identity" based on the reinterpretation of preliminary observations of constructs such as "nation-as-this and the people-as-one"³.

There are many academics that encourage this framework. Steven Majstorovic provides significant insights into the *relative politicization* of the relation between religion and collective identity.

In the preliminary stage, the author offers to those who study the problem of institutional relations between Church and State in the Balkans the possibility to examine *the ethnonational identity*, suggesting as working hypothesis *a new interpretation within the context of modernization of nation-state relation in Europe*: "while Europe was evolving the nation-state system, Eastern Europe, including the Balkans, was dominated by a system of empires that restricted the political options of ethnonational actors"⁴.

The second part of its analysis starts with presenting short data related to the emergent understandings of "church" and "politics" that can be used as a necessary analysis limited to the Balkans perception. Moreover, as Todorova writes, this configuration creates a kind of balance that

prevents the establishment of double standards concerning the Balkans' "revival process" speech.

The experience has proved that in the reality of national identities, the relation Church-State arbitrarily selects symbols, memory, experiences, myths and creates ideas⁵.

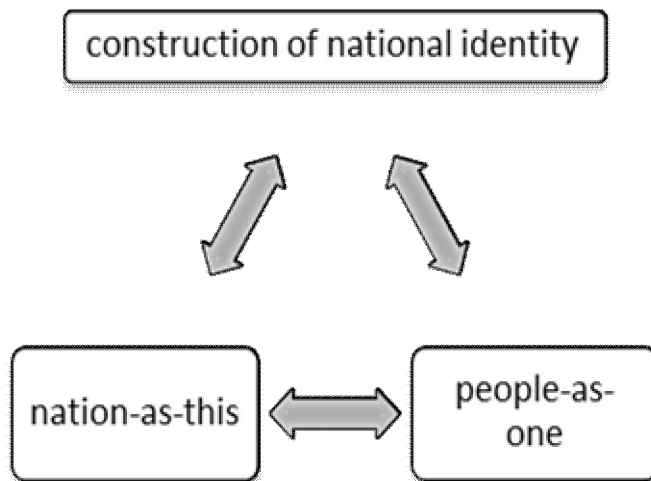


Figure 1. The "nation-as-this and the people-as-one" theory

Respectively, this quite fragile balance is not based on equal possibilities of nations. Essentially, the national issues appeal to collective memory and traditional values among which religious identification united regional political corpus and dealt with real difficulties in the sense of methodological dimensions. But what exactly explains the difference between "nation-as-this" and "people-as-one"? Two sets of

arguments are generally offered to explain best this approach.

- (a) One set refers to historical, political and legal components on the theory that most of the Balkan states are analyzed as belonging to "Eastern Orthodox Christendom". The best synthesis of this approach is found in Bideleux and Jeffries's claim that to explain the divergent path of "nation-as-this" and "people-as-one"⁶.

This theoretical explanation concerns religion and the so-called

“civilizational process” in terms of particular characteristic and independent values in the Balkans. Robert Bideleux and Ian Jeffries argue that “rather than being fundamentally “alien” or “essentially” different, the post-communist Balkans have been a microcosm of Europe as a whole and a very revealing mirror in which Western and Central Europeans have been uncomfortably reminded of the dangerous current....”⁷. On the background of these general remarks, today there is the interest in the aesthetic attachment of religious expression of Orthodoxy seeking to bring into focus two elements:

- (1) what religion offers as moral support to people and
- (2) perceptions of the Orthodox religion as it is practiced in the Balkans. Furthermore, the strong bond between the Church and the nation of Orthodoxy is based on the principle which gives the Orthodox Church the character of national Church.

In such a volatile atmosphere, events and possible scenarios for the coming years could go in any number of directions. The conflicts that marked and followed the territorial fragmentation of former Yugoslavia betrays an exalted and isolationist view of the general agreement over the fundamental rethinking of peace agreements, borders of emerged states, process of ethnic reconciliation. In the same context, a finer analysis of the political and religious phenomena in Europe would point a more nuanced perception of the encounter of Orthodoxy with the multicultural and

plural perspective of the European society.

Before analyzing a public discourse related to the impact of the “nation-as-this” and “people-as-one” in the context of the European multiculturalism, let us reflect briefly on the particular evolution of the church-state in the Balkans. In this context, the mainstream discussion of Balkan collective identity follows Harakas’ argument according to which this topic has to be developed under five headings: European Multiformity, Cultural Values and European history, Fears and Hope, Insights from the Orthodox Christian social ethic, and recent orthodox approaches to European religious pluralism⁸.

A strict position on these five matters is impossible in practical terms. Theoretically thinking it is possible to suggest some factors which contribute to the redefining of Europe’s cultural and practical image in this perspective: type of political collective identity and the tendency “to replace existing geo-politicisation with geo-culturalisation of European identity”⁹. In this context, Požarlik’s thesis about the collective identity and the challenge of an axiological pluralism in “new Europe” establishes an *associative European democracy* viable to the spiritual realities of current Balkans. This position tries to settle a way between the poles represented by *state*, *church* and *individuals*; it reaffirms the primordial character of group identity and considers the organization of Church as essential feature of contemporary European society.

- (b) The second set of explanations focuses on state-building problems and the role of political actors. Based mainly on the work of Richard Farkas, this theoretical approach looks at the public opinion polls suggesting that Central and East European argue they have “some trust” or “a lot of trust” in government (around 40%) significantly below the Church average (around 60%)¹⁰. For much of the past twenty years analysts and academics have argued whether Balkans suffers from a “crisis of identity” combined with a

“institutional deficit”. Regarding the trends in citizens’ satisfaction with their political, social, legal and religious institutions, avarious framework emerges from the Western Balkans. Gallup Balkan Monitor released in November 2009 shows that while in Albania, Kosovo and Montenegro between 18% (Albania) and 50% (Albanian in Kosovo) of the citizens have a lot of confidence in their church; concerning the governments’ performance the level of confidence is around 20%-30%¹¹.

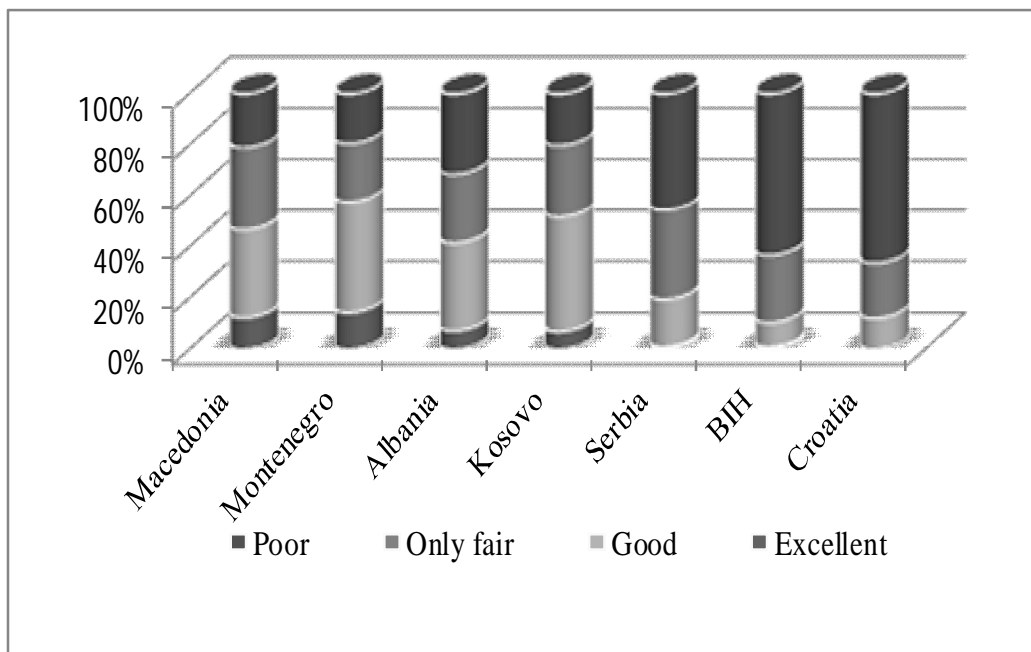


Chart 1. Level of confidence in governments' performance (Gallup Balkan Monitor 2009)

Recent understandings of collective identity and axiological pluralism the Balkans. The “we-identity theory”

Other account of different strategies and points of view of political condition of the church in the Balkans comes from the intellectuals which preferred the public discourse and the impact of EU's fundamental institutional reform of as subjects of analysis for the “essentialist pattern of collective identity construction” in the new EU members. Not surprisingly, this theoretical framework reinforce the importance of the first theory “nation-as-this and the people-as-one”, providing a pluralistic argument in the context of the European integration. Požarlik argues that there is, in fact, “a strong tendency displayed by both new and old Europeans to identify themselves to a large extent” according to a “we-identity” perception¹². European integration is, without any doubt, a process implying an exam of the meeting – in mentalities, events and terms – between the old European regional democracy and the cosmopolitan imprint¹³. Practically, one might wonder whether, following the collapse of communist collapse, there is a new state of spirit, a new mentality, as characteristic feature of the European institutional reform¹⁴.

While not necessarily embracing other skeptical assumptions, this points *two* basically *normative levels* as provocations to recent empirical researches: - (1) to indicate the main patterns of European integration in connection with others types of social and political representation¹⁵;

- (2) to emphasize a common perception of political transition: a growing sense of vulnerability and fear, dreams of a new European religious policy as a “given prefigurative interactionism” at the individual and collective level.

Furthermore, according to Detrez and Plas it is interesting to observe that in the Balkans such divergences are to be individualized “at the level of the intellectual building of the national identity, not only in terms of an alterity vis-à-vis other national groups”¹⁶.

At the same time, the “we-identity theory” contributes to the understanding of the Balkans’ spirituality characterizing the 2000’s, by reconstructing the importance of national and regional transformations, but most of all of the cultural and religious ones. As this stage of our study, Klaus Eder pointed the particular commonness as a major condition of a collective identity¹⁷. In addition to the features outlined by Detrez and Plas, Eder reflects a theoretical/practical reality, an idealistic-abstract hope and social differences arguing the balance between the need of national identity unity and danger of fragmentation. As mentioned before, the “we-identity theory” emphasizes the differences of the main ethnic criteria – origin, language and religion in the context of the European integration¹⁸. The current tendency of “we-identity” finds the *right measure (le juste milieu)* between the perspective of European integration and Balkans’ mythical experience¹⁹: polls show that religion is gaining importance for most ethnic

groups in the Western Balkans. Thus, the new tendency of “we-identity” theory fights the millenary ideas of western church on two general characteristics: a *theoretical* one, which sees the human being denying

its relation with the traditional axle and a *practical* one, which substitutes the traditions, excludes the presence of religion which no longer corresponds to new tendencies of cultural and political world.

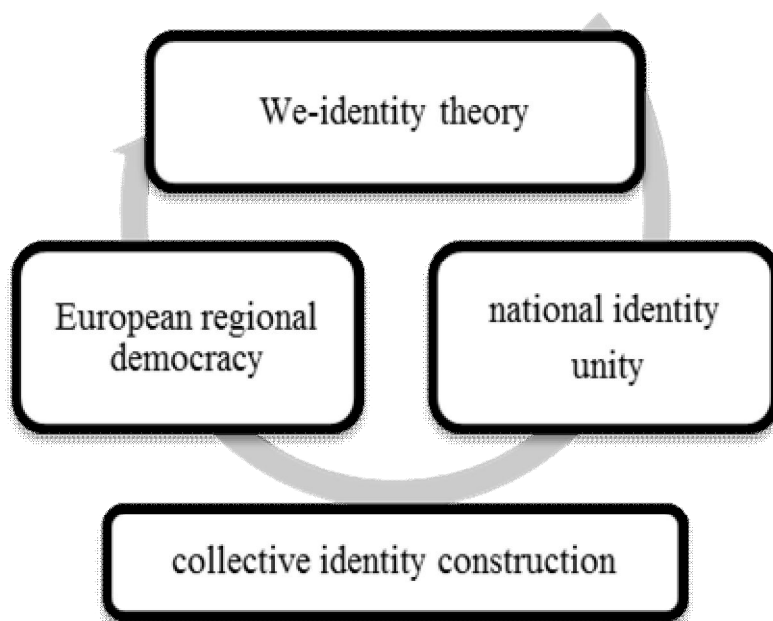


Figure 2. The “we-identity” theory

Conclusions

The consequence of this orientation is the spiritual crisis of Christianity, of individual's wish to discover spiritual freedom to create a postulated culture, solely centered on the rational ego.

A Gallup Poll (Gallup Balkan Monitor) released in 2010 found, for example, that Serbia was one of the countries where religion played the major role in everyday life (more than half of respondents)²⁰.

At the same time in Bosnia and Herzegovina, religious institutions remained the most trusted institutions for individuals (6 % in 2010)²¹.

The same survey witnesses an increasing interest regarding the religious organizations and, especially in religion, as part of their daily life (from 33 % in 2006 to 44% in 2010)²².

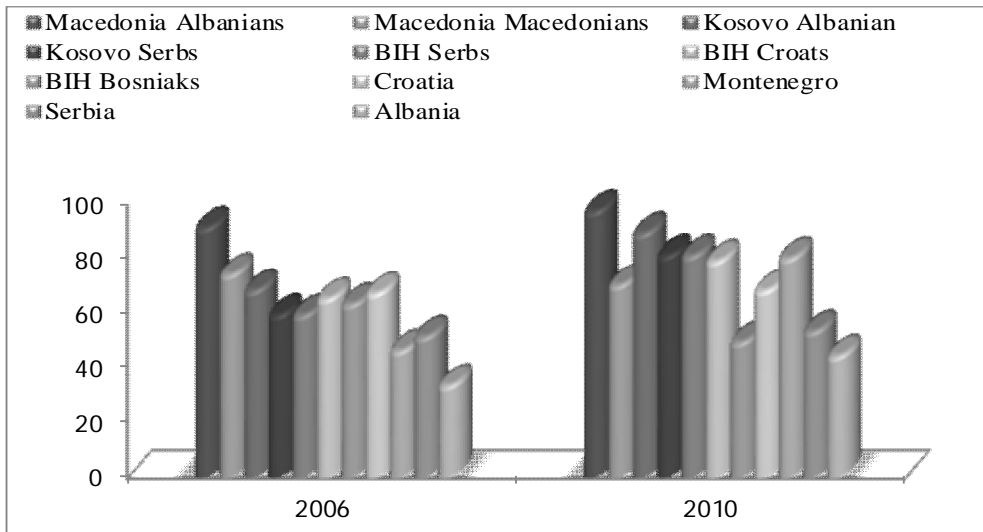


Chart 2. Summary of Findings (Gallup Balkan Monitor - comparative analysis 2006/2010)

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NOTES:

¹ Parts of this paper have been presented at the International Conference MYTHS OF THE OTHER IN THE BALKANS. REPRESENTATIONS, SOCIAL PRACTICES AND PERFORMANCES, 24-26 February 2011. Organisers: University of Macedonia, Thessaloniki, Greece under the title Anca Parmena Olimid, *Religion and the Politics of Myth-Making in the Balkans: the Role of Church-State Relations in forming a Collective Identity*.

² Nikos Chrysoloras, *Orthodoxy and Greek National Identity. An analysis of Greek Nationalism in light of A. D. Smith's Theoretical Framework*, Kokkalis Program on Southeastern and East-

Central Europe available at <http://www.hks.harvard.edu/kokkalis/GSW7/GSW%206/Nikos%20Chrysoloras%20Paper.pdf>, pp. 1-10.

³ *Ibidem*, pp. 7-8.

⁴ Steven Majstorovic, *Religion and Collective identity: The Ethnopolitical Barriers to Democratization in the Balkans* in Willian Safran (ed.), *The Secular and the Sacred. Nation, Religion and Politics*, London, Frank Cass, 2003, pp. 169-187.

⁵ Maria Todorova (ed.), *Balkan Identities. Nation and Memory*, London, C. Hurst & Co., 2002, p. 9.

⁶ Robert Bideleux, Ian Jeffries, *The Balkans. A Post-Communist History*, New York, Routledge, 2007, pp. 5-10.

⁷ *Ibidem*, p. 5.

⁸ Stanley Samuel Harakas, *European Multiformity and Dimensions of Orthodox Christian Social Ethics* in George P. Liacopoulos (ed.), *Church and Society*, Boston, Ma., Somerset Hall Press, 2007, pp. 265-267.

⁹ Grzegorz Pożarlik, *Collective identity and the challenge of axiological pluralism in the new Europe* in Magdalena Góra and Zdzisław Mach (eds.), *Collective Identity and Democracy. The Impact of EU Enlargement*, ARENA Report No 4/10, RECON Report No. 12, Oslo, October 2010, pp. 64-66.

¹⁰ Richard P. Farkas, *Democratization in the Balkans. Prescription for a Badly Scarred Body Politic*, Northeastern University Press, UPNE, 2008, pp. 40-45.

¹¹ Gallup Balkan Monitor. *Insights and Perceptions: Voices of the Balkans* in partnership with the European Fund for the Balkans, *2009 Summary of Findings* available at http://www.balkan-monitor.eu/files/BalkanMonitor-2009_Summary_of_Findings.pdf, pp. 25-27.

¹² Grzegorz Pożarlik, *op. cit.*, pp. 63-65.

¹³ *Ibidem*, p. 61.

¹⁴ For more details see Cătălina Maria Georgescu, *Migrația forței de muncă și securitatea statelor în spațial european în "Actele Simpozionului Internațional Politică de vecinătate și noul spirit european"*, Editura Libertatea, Panciova, 2009, pp. 66-75.

¹⁵ *Ibidem*.

¹⁶ Raymond Detrez, Pieter Plas (eds.), *Developing Cultural Identity in the Balkans. Convergence vs. Divergence*, Brussels, P.I.E.-Peter Lang, 2005, pp. 214-215.

¹⁷ Klaus Eder, *Remembering National Memories Together: The Formation of a Transnational Identity in Europe* in Klaus Eder, Willfried Spohn (eds.), *Collective Memory and European Identity. The*

Effects of Integration and Enlargement, Burlington, Ashgate, 2005, pp. 198-199.

¹⁸ For a comparative analysis, see Tsvetana Georgiev, *The Balkans – An ethnic and cultural crossroads* in Council of Europe Press, *The Balkans – ethnic and cultural crossroads: educational and cultural aspects*, Strasbourg, Council of Europe Publishing, 1997, pp. 29-31.

¹⁹ For a general overview, see "Declaration on European Identity" (Copenhagen Summit, 14 December 1973), December 1973, No. 12, pp. 118-122. The Declaration introduces the concept of a *common identity* in the European diplomacy, *Bulletin of the European Communities*. It also contributes to the establishment of cherished values based on the respect of legal, political and moral order and preservation of national cultures.

²⁰ Gallup Balkan Monitor. *Insights and Perceptions: Voices of the Balkans* in partnership with the European Fund for the Balkans, *2010 Summary of Findings* available at http://www.balkan-monitor.eu/files/BalkanMonitor-2010_Summary_of_Findings.pdf, pp. 16-28.

²¹ *Ibidem*, p. 28.

²² *Ibidem*, p. 10.

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STATISTICAL METHODS

Mihai COSTESCU

The Young Test to evaluate the action of the systematic causes upon the data in the survey. Applicative Program

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Abstract: *The present article emphasizes both systematic errors and values affected by blunt errors which are detected and removed since they influence in an unfavourable manner the survey results.*

Keywords: *systematic causes, survey data, random factors, systematic errors.*

It is known the fact that two types of errors can act upon the survey data: systematic errors, with unilateral action and random errors, with action in both ways, due to a multitude of factors of which individual influence is negligible.

Both systematic errors and values affected by blunt errors must be detected and removed since they influence in an unfavourable manner the survey results.

The systematic errors detection and removal proves to be practically difficult due to the multitude of factors that intercondition each other and this is why the methodics of removing these errors have a very complex and varied character.

In this regard, the Young test, although does not offer the possibility of removing systematic errors, it enables the determination of systematic causes influence upon

the survey data.

The hypothesis is tested:

H_0 : upon survey data only random factors acted;

with alternative

H_1 : upon survey data systematic errors acted.

Given an experimental run of values x_1, x_2, \dots, x_n , the scale is calculated

$$\delta^2 = \frac{1}{n-1} \sum_{i=1}^{n-1} (x_{i+1} - x_i)^2,$$

Then it is determined the survey spread

$$\sigma^2 = \frac{1}{n} \cdot \sum_{i=1}^n (x_i - \bar{x})^2$$

and, finally, the scale M

$$M = \frac{\sigma^2}{\delta^2}.$$

Scale M thus determined is compared with the lower critical values (v_{inf}) and upper (v_{sup}), chosen from the table described below, and it is considered that the experimental run of values has a random character, with the probability α , if it is accomplished the requirement:

$$v_{inf} < M < v_{sup}$$

v_{inf} and v_{sup} Values for the Young test

n	v_{inf}		v_{sup}	
	$\alpha = 0,95$	$\alpha = 0,99$	$\alpha = 0,95$	$\alpha = 0,99$
4	0,78	0,53	3,22	3,47
5	0,82	0,54	3,18	3,46
6	0,89	0,56	3,11	3,44
7	0,94	0,61	3,06	3,39
8	0,98	0,66	3,02	3,34
9	1,02	0,71	2,98	3,29
10	1,06	0,75	2,94	3,25
11	1,10	0,79	2,90	3,21
12	1,13	0,83	2,87	3,17
15	1,21	0,92	2,79	3,08
20	1,30	1,04	2,70	2,96
25	1,37	1,13	2,63	2,87

It can be noticed that the test cannot be applied but for samples including at the most 25 experimental values. If the sample volume is between two values in the table, it is recommended to be chosen the values corresponding to a smaller volume of the sample.

For this test there has been achieved a TP procedure presented below.

young procedure;

```
{young Procedure decides whether
upon the data in the sample
systematic causes acted or not
The sample volume needs to be of
maximum 25}
type vect=array[1..25] of real;
var x:vect;
    i,n:integer;
    d2,m,mean,disp,vinf,vsup:real;
begin {procedure young}
    write('Introduce the number of values
in the sample n = ');
    readln(n);
    writeln('Introduce the critical
values:');
    write(' lower vinf = ');
    readln(vinf);
    write(' upper vsup = ');
    readln(vsup);
    writeln('Introduce the sample
values');
    mean:=0;
    for i:= 1 to n do
        begin
            write('x(,i,) = ');
            readln(x[i]);
            mean:=mean+x[i];
        end;
    mean:=mean/n;
    disp:=0;
    for i:=1 to n do
        disp:=disp+sqr(x[i]-mean);
    disp:=disp/(n-1);
    d2:=0;
    for i:=1 to n-1 do
        d2:=d2+sqr(x[i+1]-x[i]);
```

```
    d2:=d2/(n-1);
    m:=d2/disp;
    writeln;
    writeln('selection mean =
',mean:5:2);
    Writeln('selection spread = ',disp:9:7);
    writeln('Value d^2 = ',d2:9:7);
    writeln('M value calculated = ',m:5:2);
    writeln;
    if (m>vinf) and (m<vsup)
        then writeln('There have not been
systematic'causes)
        else writeln('There have not been
systematic'causes');
    end; {procedure young}
```

By applying this procedure to a run of 17 values, the results were as follows:

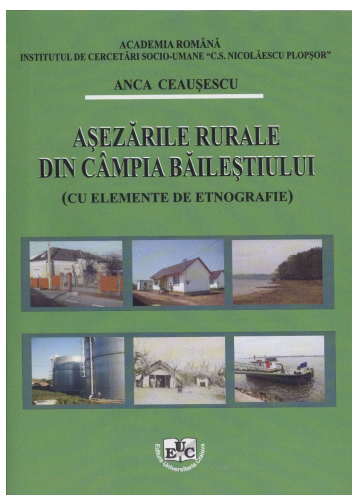
```
Introduce the number of values of the
sample n = 17
Introduce critical values:
    lower vinf = 0.92
    upper vsup = 3.08
Introduce values in the sample
x(1) = 5.27
x(2) = 5.08
x(3) = 5.21
x(4) = 5.09
x(5) = 5.16
x(6) = 5.24
x(7) = 5.21
x(8) = 5.26
x(9) = 5.06
x(10) = 5.25
x(11) = 5.08
x(12) = 5.21
x(13) = 5.16
x(14) = 5.25
x(15) = 5.06
x(16) = 5.21
x(17) = 5.26
Mean of selection = 5.18
Selection spread = 0.0059750
Value d^2 = 0.0172313
Value M calculated = 2.88
There have not been systematic causes.
```

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BOOK REVIEW



Anca Ceașescu, *Așezările rurale din Câmpia Băileștiului (cu elemente de etnografie)*, Universitaria Publishing House, Craiova, 2011, (335 p.).

The work belongs to a wider series of analyses with regional character that includes representative socio-economic spaces in the assembly of the national territory. Through their way of approaching, the work brings forward the problems of this plain, starting with the phases of population and continuing to the changes that characterize the nowadays socio-economic structures. The conceptual basis of the work has a pronounced interdisciplinary character, reuniting notions of geography, sociology, economy, historic-geography, ethnography etc.

In the present work, the author managed, following the pattern of a

rigorous methodology, to add relevant elements for the knowledge of the nature and of the human communities that populate this region, starting from the natural conditions, as premises of the human development and to the shaping of a prospective vision on the evolution of these settlements. Approaching, not at last, the aspects of the traditional life, the analysis follows three dimensions: an evolutive one, a structural-functional one and a typological one. The complex analysis of the human problems from the Băilești Plain was realized not only on the plain's level, but also on administrative unities, on demographic groups of settlements and for the detailing of the phenomena, the approaching was done at the village level.

The work is structured on 10 chapters: 1. *The historic of the researches*; 2. *The geographic individuality and originality of the Băilești Plain*; 3. *The natural conditions, premises of the rural development*; 4. *The Băilești Plain – geographic region of old and permanent dwelling*; 5. *The geodemographic potential*; 6. *The rural settlements – main components of the geographic landscape*; 7. *The dimension, the structure and the specific of the economic potential*; 8. *The economic and social-cultural dimension of the life quality*; 9. *The perspectives of the economic and*

social development; 10. Elements of ethnography. The text of each chapter is accompanied by thematic maps, graphic representations as diagrams and photographic images. The entire statistic information is synthesized in tables and the annexes tables.

After a short presentation of the the researches in the rural geography and the mentioning of the geographic position for the studied area, the author analyzes, in chapter III, the conditions of the natural environment as premisses of the rural dwelling and development. It is enhanced, firstly, the quality of the relief, of great accessibility, being regarded as a support-element of the other constituent ones, but especially as an active component that, through its variety, distribution, morphology, offered the appropriate conditions for the emerging and the spatial spreading of the human settlements. The analysis vises the influence of the climatic elements on the rural settlements, the relation of the habitat with the hydrographic network and the biopedogeographical concerning their attracting in the humanizing process.

In chapter IV, the author evidences the oldness and the continuity of dwelling in the space of the Băilești Plain, starting with the prehistory and continuing till the present moment, based on the material culture (resulted after the archaeological discoveries), the historic documents and the cartographic materials.

Chapter V, in which is analyzed the geodemographical potential, represents a consistent part of the

work. There are made analyses and interpretations regarding the staged evolution in the number of dwellers, presented in time and space, at the level of plain, commune, village, on groups of demographic size of the villages etc., establishing the actual tendencies.

In order to evidence the dynamic of the demographic phenomenon, the author analyzes, based on the statistic data, a series of specific indicators: the evolution rhythm of the natural balance, the vitality index (pearl's index), the actual problems regarding the territorial mobility of the population, starting from the causes to the consequences that appeared. Also, we notice the analysis of the mutations that appeared in the geodemographic structures through the indicators that refer to the structure of the population on groups of age and gender, the demographic aging index, the rapport of demographic dependency, the rate of activity, the unemployment rate etc. The author signals the presence of a slow, but continuous, process of demographic aging and a greater share of feminine population.

An ample analysis is realized at the level of the plain's rural settlements (chapter VI), both from the historic and geographical point of view. The entire attention is concentrated on the relation between the settlements and the natural environment, on their genesis and evolution. The territorial distribution of the rural settlements from the plain is approached quantitatively (density, indexes of dispersion), morphologically (noticing that the

most numerous settlements are the gathered ones), structurally and functionally.

In chapter VII, the author makes a detailed presentation of the region's economic specific, starting from the traditional agricultural practices and to the use of a technological level characteristic to the present period of time. The socio-historic conditions specific for each stage of development produced important mutations as concerning the way in which the lands are used.

As a new element, in chapter VIII, it is analyzed the evaluative concept of the life quality, direct result of the relation between the life conditions and human activities to the necessities and the aspirations of the individual. The analysis is realized on the statistic information and the perception of the local population.

To make a whole analysis of the field region, in the last but one chapter of the work (chapter IX), is realized a diagnosis of the rural space of the plain, through a Swot analysis, being identified, the weaknesses, the strengths, the opportunities and the threats.

The integration in the Euro-Atlantic space is perceived by the author as an opportunity for the local communities to stimulate the economic and social life.

The work ends with an ample chapter that includes elements of ethnography: the materiel component (the house), main and secondary traditional occupations of the plain dwellers, ancient trades. The author brings solid arguments that the dwellers from this area are the bearers of an old civilization of the clay and wood products, expressing in wood and clay as the Mediterranean world had done with the stone. As an element of particularization in the analyzed space, is the presence of the hut (until the starting of the 20th century) – a documentary treasure for the archaeologists, ethnographers and linguists. It is firmly rejected its identification with the concept of poverty. In the historical evolution are also analyzed few of the elements of the traditional way to render valuable the natural resources of the soil and also the diversity of the used techniques and tools.

Solidly elaborated, on the basis of the data and the interdisciplinary information, the work prefigures a model of regional analysis, with practical applicability in the durable development.

Loredana Maria Grozoiu