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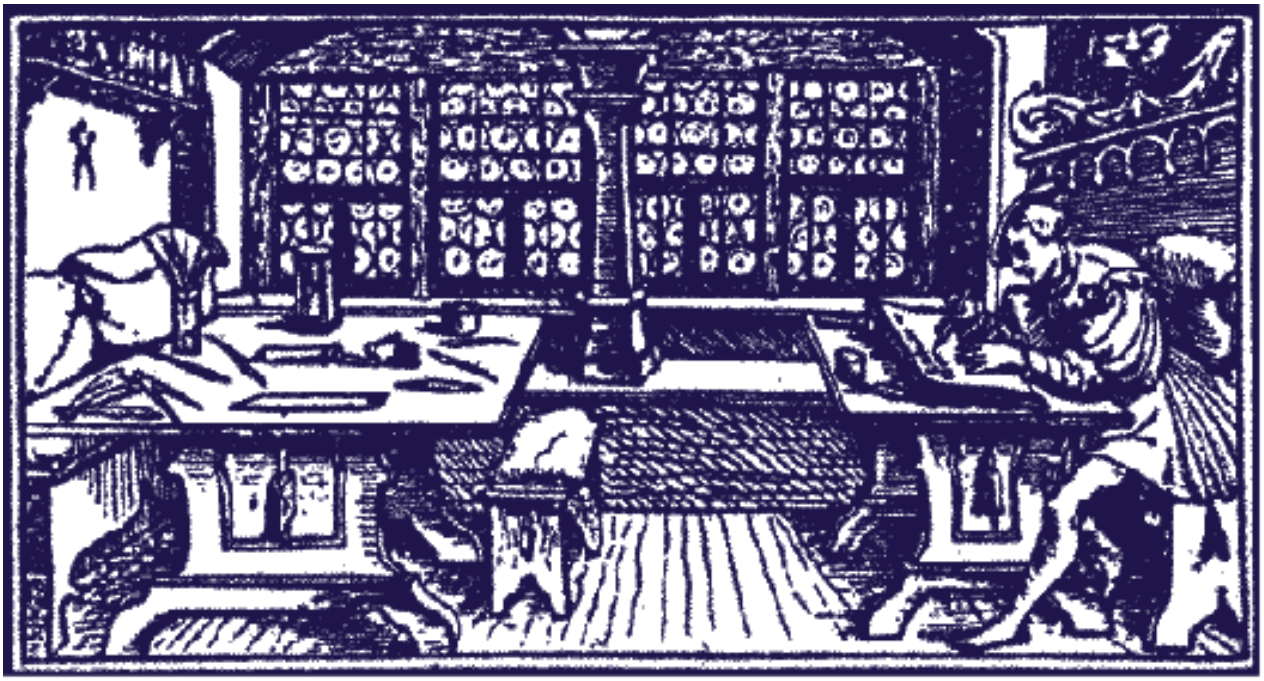

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WOMEN IN THE LIVES OF ROMANIAN TRANSNATIONAL FAMILIES

VIORELA DUCU

ABSTRACT. This study presents the strategy through which migrant women manage to fulfill their role of care-provider from a distance. The illustration of the transfer of care towards another woman at home (daughter, sister, mother etc.) stresses the way in which women support each other within transnational families. Interviews with transnational family members (migrants and non-migrants) underline the way in which migrant women manage actively supporting their family financially and emotionally. Moreover, presently in Romania migrant women and their families need to confront the stigmatizing public discourse in which they are referred to as irresponsible mothers leaving their children and careless wives leading their families to divorce and falling apart.

Keywords: labor migration, transnational families, public discourse, migrant women

In this study I present the strategy through which migrant women manage to fulfill their care-provider role, from a distance. The illustration of the transfer of care towards another woman at home (daughter, sister, mother etc.) stresses the way in which women support each other within transnational families. Interviews with transnational family members (migrants and non-migrants) underline the way in which migrant women manage actively supporting their family financially and emotionally. Moreover, presently in Romania, migrant women and their families need to confront the stigmatizing public discourse in which they are referred to as irresponsible mothers leaving their children and careless wives leading their families to divorce and falling apart.

My research focuses on women migrating abroad from Romania for work and their relationship with their families left home. Specifically, I am viewing two counties (Cluj and Bistrița-Năsăud). The target countries of the subjects in question are Spain and Italy, these being the primary target countries for migration from Romania, as the study Living Abroad on a Temporary Basis - The Economic Migration of Romanians: 1990-2006 (Sandu, et al., 2006, pp: 13-41) shows: Spain is accounted for a quarter and Italy for half of the migrants.

The study analyses the phenomenon of transnational families and its effects as exemplified on the case of Romanian women which migrated abroad for work. They keep in contact with their children and elderly at home and with those taking care of them. The perspective of these women is essential to understanding the phenomenon of women's migration.

Theoretical issues

Linda Basch, Nina Glick Schiller and Cristina Szanton Blanc (1994) noticed that migrants subject to their research developed transnational practices not addressed by migration theories at the time (migration theories served the nation-state and treated the migrants as either exit groups – emigrants – or as entry groups – immigrants). Thus the theory of transnationalism emerged within migration: the theory of processes through which migrants build and maintain multiple social relationships linking their society of origin to the one hosting them (Levitt & Sørensen, 2005). Migrants and their descendents remain active in their country of origin, while they integrate into the host country in multiple ways: social, economical, religious, political and cultural (Levitt & Jaworsky, 2007).

Transnational families are those, the members of which live a longer or a shorter period of time separated due to migration, but maintain powerful bonds among them and create a sense of collective well-being and unity called 'familyhood' even through state borders (Brycesson & Vourela, 2002, pp 3-4). The bonds that the members of a family in a foreign country develop and maintain with the ones at home, as well as with the members of the community they left from (friends, distant relatives, colleagues etc.) are much more powerful than just a sense of attachment for the past (Sørensen, 2005), whereas the efforts to adapt to the host country are mediated by this relationship to the place of origin (Østergaard-Nielsen, E. ed, 2003).

Whereas traditionally the household meant a number of people living together and participating in the fulfillment of basic reproductive and productive duties, researchers in the field of transnational families reassess the idea of a household based on cohabitation and take into consideration the spatial separatation of its members. For example, in a transnational family one or more adults (parents or grown-up children) produce income abroad, whereas other family members are responsible for the reproductive, social and consumption duties in the home country (Parreňas, 2001). This collaboration to the life of the household exists without the active members' living together.

The 90's brought two major perspectives in migration studies: gender and transnationalism (Levitt & Jaworsky, 2007). As a direct

consequence of the two approaches transnational families studies has intensified, many publications being issued on the topic that try to treat the subject through multiple perspectives, most often focusing upon the functioning and daily practice within such families.

One of the interpretive trends stresses the rupture and disintegration of families in the transnational setting, the difficulties they encounter, the negative effects the family members undergo due to their separate lives.

Another, more recent trend focuses upon the fact that transnational families in fact do manage building their own identity and maintaining their functionality (Baldassar, et al., 2007). The forces binding these families may be stronger than those physical and legal forces that separate them (Vourela, 2002). Through emotional and financial bonds they succeed in building a social space that allows them to maintain unity, especially through modern technological means of communication that help keep a common direction between the two worlds.

Transnational families studies, although much centered on the close family (husband-wife-children or father-mother-children relationships), also take into consideration the broader family (encompassing grandparents, brothers, sisters, in-laws, grandchildren, nephews and nieces, uncles and aunts). The way in which migrants manage to keep in touch with the elderly at home, providing them financial and emotional support and care is also stressed.

The relationship is not one-way only: those left abroad are not the only ones to care for the others. Often enough there are cases when the grandparents or other family members must help those who left, either financially, by travelling to help out with their household or through caring for the children and the sick.

The reuniting of the family is most often preceded by a long transnational coexistence. At the moment of reuniting, family members must redefine their way of cohabitation and often enough this leads to tensions among family members (especially with children who have spent a long period without their parents) – a readaptation to coexistence being needed.

Beside emotional bonds, money sent home by migrant family members is extremely important for those left home. The economy of many poor countries is based on this money through the fact that migrants provide for their families. Modern money-sending methods (fast and safe) and using migrant networks to send money make the financial support possible (Schmalzbauer, 2008). Migrants cannot always send money fast and those at home must find alternative financial sources (temporary

employment or loans). There are cases when those left simply refuse to keep contact with those at home and hence do not provide them financial support (Schmalzbauer, 2004). Tense situations arise when financial conflict appears between those left and those at home: e.g. those at home do not find the money to be self sufficient (Schmalzbauer, 2004).

The link between the feminization of migration and the development of transnational families studies (Sørensen, 2005) appears mostly in terms of genderisation of household and family relationships. Women are responsible mostly with providing emotional comfort; hence their absence is associated with the family's falling apart. There are researchers who discover the way to redefining gender relationships in women's migration. Women manage to provide financial resources for the family and hence are more liable to redefine traditional power relationships within the couple or even to free themselves from dominating relationships (Morokvasic, 1984, 2007). The most motivating goal for a woman to migrate for work is the desire to contribute to raising family incomes. Women count much on family support for being able to migrate, especially in the case the family has children or elderly needing care.

Methodology and description of fieldwork

This paper is based on 34 interviews on the topic of transnational families, taken in the June – August 2008 period. Participants include respondents (transnational family members and key persons – representatives of the local administration, of NGOs, teaching staff) from three rural communities: Mociu from the county of Cluj; Dumitra and Parva from the county of Bistrița-Năsăud. The respondents have been identified via the key persons: a representative of an NGO in Mociu, a retired school-teacher in Dumitra and a young school-teacher in Parva. In many cases these were group interviews, with the participation of several transnational family members and key persons, especially women. In these discussions I perceived migrant women's need to be heard, to be understood, to defend themselves from the guilt their society throws upon them, allegedly for leaving their homes and destroying their families. The opportunity to talk to an important woman of their community about these issues was very much valued by them. My presence there, the interest they received from me directly, through my research, and indirectly, through the women in my company, all meant an opportunity for them to signal: they are aware of the accusations, and they want a chance to defend themselves. The length of the interviews measured 50 minutes on the average. All the names used in this paper are pseudonyms.

I chose the biographical interview type (Apitzsch, et al., 2007), considering that the experience of migration belongs to transnational families' way of life, their existence encompassing the migration of one or more of its members as a defining factor of their functioning. Thus, the interviews with the members of transnational families (migrants and non-migrants) have followed the roles migration plays in their lives, placing emphasis on their family relationships not as an event in their lives but as a way of life. Moreover, even interviews with key persons from the community took direction towards a biographical approach, thus we could capture the way the migration of community members influences the way of life of non-migrants from the same community. From confronting the decision of their own possible migration until developing a lifestyle that implies a permanent positioning towards community members at home and those abroad, the lives of these key persons is marked by migration almost in the same way as that of transnational family members. NGO members, local administration employees and teaching staff work frequently and directly not only with non-migrant transnational family members, but also with migrant ones. Understanding these deciding members of the community in respect of migration, not as eye witnesses of migration but as constitutive parts of this phenomenon, insofar as their lives happen under the sign of migration, allowed me to understand the way in which the life of transnational family members goes beyond the limits of households. The migration of a family member doesn't exclusively concern their own household, but the community as a whole this family is a part of. I observed this in the rural communities where the research took place.

The migration of transnational family members from the two counties presents differences: for those from Cluj, the target country is mostly Italy, the number of migrants within the community is smaller, the migration is rather periodical (several months abroad, several months at home), only one family member leaves, children stay at home in the care of the other parent; for those from Bistrița-Năsăud the target country is mostly Spain, the number of migrants is very high within the community (almost 50% from the active population, according to the respondents' own telling), migration is long-term (full-time employment, coming home only when on holidays), several family members migrate, in most cases both parents, the children staying at home in the care of other grown-ups.

My research has been carried out during the summer, the holiday period for migrants. Due to the newly built houses and foreign plate cars, especially in Bistrița-Năsăud, I felt like I was in Spain itself. These

communities are heavily impregnated with the phenomenon of migration, but not only because from the money earned abroad many new homes have been built, but also because all the members of the community are directly or indirectly involved in the phenomenon, having relatives and friends among the migrants; hence a great part of discussions during summertime focus on what is going on ‚there'.

Women in the lives of transnational families

Women in the role of the family's breadwinner

Women in Cluj usually migrate *alone*, when leaving for short periods of time. They find employment through employment agents or through a network – other women or relatives. Sometimes they are followed by husbands. Augusta has left to work in Italy for a few years (2003-2007). The first contract she has found was through a woman friend. For two years she worked alternating (in two and a half months turns) with her sister at the same workplace "in order to keep the job ... since it was quite hard to keep the same workplace". Mirela has originally left to Italy through a workforce placement agency, for two years and then she left through a personal arrangement. Daria has originally left for 6 months, by her cousin's help. After a year and a half she took her 17-year-old sister Cristina along (at the moment of the interview she's been away for 6 months). Both work as cleaning persons. Tania left in 2003 to work in care giving at a relative's invitation that already migrated to Spain and in 2005 was followed by her husband; since, they have been migrating periodically, „coming home for a few months and then returning again".

These women are their families' breadwinners, and their reason to migrate was the family's financial need. All of the above respondents, and others too in my research chose to migrate due to the lack of money: for a more decent home, in order to raise their children and support them in their studies. Tania had two student children she needed to support. Daria was a lone mother and needed to raise a child. Augusta left since she and her husband had two children and they shared one room and a kitchen. Mirela was forced to migrate since her husband, who initially wanted to migrate to Portugal took a mortgage loan from a bank, mortgaged their house and was cheated by somebody who took the money.

I have met these women, who became the main breadwinner of the family through migration, in Cluj County. It is specific for their migration that they migrate alone, not being accompanied by their husbands, and they often return to the country for short periods of time. Their migration is

rather a cyclic one (3-4 months of work abroad, 2-3 months at home). In many cases they keep their workplace through „shifting" with another migrant woman from their family. Resorting to this type of migration is motivated by them through their incapability to stay away from their families for a long period of time. On the other hand, I noticed that this type of migration is associated with one target country, Italy. The women extend their period of migration when another family member starts to accompany them (husbands, sisters, cousins). In the same community, men migrate alone (irrespective of the target country) they spend much more time away from the family. They return three times a year, on the average, usually at holydays (Christmas and Easter) for short periods of time (2-3 days) and in the summer vacation (for a few weeks). Although the time spent with their family at home is much longer, migrant women are seen negatively by the community. Thus, it is preferable in the community that men migrate who also bring back more money, due to their better paid work types and the longer time spent at work. Families having the female members who migrate are considered families with a high risk of disintegration. Families having the male members who migrate are seen positively since they have a strong financial upholder. Women are ignored by the community as primary breadwinners and this role is not directly enough recognized by their own families. The priority of women's roles as direct caregivers against breadwinning is reinforced by the migrant women themselves: „I need to do this for the money, but being here with them, giving them care is all I really wish for".

Women in the role of the breadwinner's partner

Women, especially those from Bistrița-Năsăud migrate mostly *following their husbands*. Sometimes the couple migrates together, but women mostly leave a few months or years after the husbands' migrating.

Flora migrated to Spain in 1990 newly married, together with her husband, wishing to lead a better life with him. After 17 years, succeeding in gathering money and to start a business in Romania that they manage together, they came back to the country. They faced the difficulties of illegal migration together, and aided the migration of many Romanians to Spain. It is clear that their relationship has been and continues to be one of partnership. The fact that the wife has been as involved in migration as the husband has given her equal rights to decide and act on behalf of the couple.

Nora's husband has left to Spain in 2003. After 2 years, under the pressure of suspicions that her husband might be cheating on her, on

advice of her husband's mother, her mother-in-law, who gave her the money for the trip, she left to Spain to try saving her marriage. Her husband was not doing well in Spain, he had debts even with his rent, and Nora decided to help him. She works as a housekeeper at 10 families and earns „herself more than him". For 3 years she has been working with her husband in Spain, and being more attentive with expenses, they have managed to raise some money: „last year they have brought in the country one billion two hundred and fifty million lei... money you couldn't make in a lifetime over here" [the sum equals about 35000 euro].

Maria's husband has left to Italy in 2000 a few weeks after their wedding: „we married on the 4th of November and on the 20th of December he left". After eight months, Maria joined her husband in Italy. After four years, their son Ionuț was born. The boy was brought and left in the country since in Italy Maria could not work and take care of the baby in the same time. At the beginning of 2008, Ionuț, who has turned eight, refused to let his mother leave. Since it is too hard for them to raise the child in Italy, Maria needed to choose between staying with her husband or her son, and chose to stay with the child who needed her most. Maria had not only made money in Italy, but also managed to build a professional career. She worked in typography where she was promoted to be a team leader. She was one of the few migrants in the company and managed to integrate well. Her return home didn't only mean for her the separation from her husband, who remained to continue work for the family, but also to her professional status. In Romania, the chance to re-integrate professionally is quite distant. Even thus, she learned from her migration experience that one can manage professionally and hopes that from the money raised she could open a small business in Romania together with other family members.

Emilia's husband was a migrant to Spain for eight and a half years. She went after him after two years, both coming back in 2008, after the fourth family member appeared. Emilia took her first child along, aged six by then, after one year and five months, and he would go to school there. It was hard for her being a mother in Spain, the child staying at home alone while the parents worked. She tried to teach him in her free hours to write and read Romanian, since there was no Romanian teaching available in their area. Parents there have difficulties teaching their children Romanian mostly because children do not see the reason for this: „is it not enough I have learned Spanish?" Women like Emilia have the task of maintaining their children's Romanian identity. Thus, besides participating in the family's breadwinning, they also handle the education of children following their

parents as migrants. After returning home, Emilia is raising her second child and has enrolled to the university, at the age of 32. She wants to work in education. Her experience in Spain showed her that besides being a mother, one has to manage one's professional development, too.

Lola has left to Spain with her two children in 2000, a few months after her husband did. She works a cleaning person, independently, since she needs a flexible schedule in order to manage with the children's education. Unfortunately, the children have not learned to read and right in Romanian and the parents cannot come home but once the children finish their studies, including university, and are able to manage on their own in Spain. Lola wants to continue her studies there and to enter into a new stage of their life. She needs to stop working in order to be able to raise the children and to study at the same time.

Mia has left for five years to Spain following her husband. Initially, for two years she came back every three months for another three months. She worked for two years at a cleaning company, and due to her dedication she received a job offer at a printing company. Mia has been very proud that she received this offer in a place with few migrants. She entered the typography as the representative of the cleaning company. Mia received another gesture of appreciation from her old landlord and landlady, who have no children in Spain and treat her as a family member. Her professional success of working in a typography as a long-term employee cannot be repeated in Romania. She is 38 and would have great difficulties finding a similar workplace at this age. Her problem seems to be that she needed to choose between her work and her role as a mother. Her daughter was left home alone in Romania from the age of 10. But since she has no work opportunity in Romania, she is determined to continue work until a total of 10 years in order to receive a pension there.

For women, this kind of participation in breadwinning through migration together with their husbands is more than a simple work-abroad project. It presupposes their involvement in the couple as equal partners, sometimes even the management of the couple's life for shared purposes. Moreover, they need to slide between work and children, sometimes giving up their professional goals for the sake of children, like Maria, or accepting separation from the children in order to keep their job, as in Mia's case. A major impact of the experience of migration on women concerns their trust in their own capacity for professional progress. Mirela, in the period she was working as a housekeeper in Italy, has also graduated in Romania; Emilia and Lola also wish to pursue their studies. Thus, we may speak of

an emancipation of these women migrating from Romanian villages where they had no such perspective and where they never experienced success.

However, migrant women, even if they accompany their husbands and participate as equal partners, they are made responsible by the community for those left at home: the elderly, the sick and the children. Even though they are „together in the same place", nobody expects that the migrant husband have a responsibility for care giving, he only needs to ensure financial support, whereas the migrant wife, besides earning money, needs to ensure care giving for dependent members of the family.

Women – the transfer of the caregiver's role

Leaving the country would never have been possible if they did not receive support in handing over their direct duties of caring for the young and the elderly. Other female family members, the husbands, neighbors or sometimes paid women have filled the lacuna left in the household by the leaving of a woman. The transfer of care is not only done for those remaining home, women need support in tending the children even when they migrate together with them. In these cases, others, especially female family members, follow them in order to help.

For 5 ears, Ileana's husband has been „both mother and father" for their two teenage daughters. The older daughter went to high school and the younger to secondary, but they both studied in the city of Cluj-Napoca and it was difficult for the parents to support them from the money earned in the village. Ileana left for one „cycle" (3-6 months) periodically, then she stayed at home for one or two months. The father tended the girls alone in exam sessions and tried to fulfill the mother's role, too. He was much helped by the older daughter in caring for the younger, as she grew up very fast after the mother's leaving, supervising and guiding her sister. Her mother's migration project is a life-example to her. Even though she could have gone to college, she chose to study to be a nurse, since she would get an employment contract abroad easily after a two-years practice at home.

Children, especially when very young, remain mostly in the care of grandmothers, preferably on the mother's side. This is the case with Maria's child, too, who remained in her grandmother's care from the age of four months to that of four years. Even though she very much loves her grandparents, "mother Ica and father Gelu", including them into the family drawing he drew together with his mom, choosing that he should himself stand in the middle, the boy refused to accept her mother's departure after their last visit. The grandmother is very upset that her daughter had to

come back after things had been going very well for her in Italy, receiving a promotion, too, right when the child was already quite grown and easier to take care of. This grandmother needed to take the child to Maria in Italy, since Maria's sister had given birth in Spain and needed her mother's help. She is happy that she can help her daughters in raising their children and also understands and strongly supports their decision to migrate. Even though Italy and Spain are very far and the bus trip is extenuating, she is glad to be of assistance.

Lăcrămioara, at home with one child after her husband has left to work abroad, takes care of one nephew, too, the older son of her sister who has migrated to Spain with two younger children. Besides the fact that she tends the children in the country, she also goes to Spain for three months a year to take care of the children of her two sisters there. The sisters go to work in the grape-gathering time and Lăcrămioara needs to tend the three nephews. At the time when her sister gave birth, and her mother went to Spain, Lăcrămioara took over the caregiver's role for her sisters' children, since she is too sick to work for money and in this way she feels like participating in the support of her large family.

The transfer of care between sisters can be observed also in the case of Augusta and her sister, who in the period they were working in alternating courses at the same workplace in Italy, took care of their own and each other's children when on leave (Augusta had two, her sister one child).

The elderly at home are often left in the care of their grandchildren. Thus, Tania's daughter needed to take care of her grandfather when he was seriously ill, and a girl whose parents were gone to Spain returned for six months to her native village in order to tend her sick grandmother.

Mia has left her 10-year-old daughter home, initially at relatives. She and her husband were gone for 5 years, but the arrangement with the relatives did not last so long; after a few years she started paying a fellow village-woman to come help the girl who decided to live alone in her parents' house. Vera, having been gone for 6 years along with her husband, has initially left her 1-year-old daughter with her mother. After three years she took her along for two years to Spain. Then she took her back again and left her home. Whereas at home her mother tended the child, in Spain she needed to pay women for this: she took a girl from her village along to Spain to help her with the child for money.

Mioara has followed her husband to Spain five years after his departure. One of the children was quite grown, in his first year of college, and the second in the 11th grade when the mother also left. Since the older

child was studying in Cluj-Napoca, the younger one was left under supervision of a neighbor, the mother of one of his classmates. Cooking was provided by another female friend. Mioara asked for the help of these women since she had no female relative around. Her mother-in-law was very sick, and her own mother lived in a faraway village. She did come from time to time to clean and wash.

Women also encounter *problems with the transfer of care*. Those left in their stead do not always manage to cope with the task, special events occur that require the presence of the children's legal representatives and sometimes excessive protection turns back on the children.

Mirela gave up working abroad since her husband, who was supposed to take care of their two teenage daughters, developed an alcohol problem. The girls have desperately contacted their mother and asked her to come back and stay. Now she only considers leaving together with her husband; the girls are old enough and they can manage better on their own than with a father who has a drinking problem.

Mioara lived a true nightmare when her son, left in the care of a woman neighbor and a friend needed to undergo an urgent surgery. The women took the child to the hospital and stayed with him, but when needed to sign for his complete anesthesia, everybody panicked since both parents were away and there was no legal tutor for the child in the country. Mioara talked to the doctor on the phone and gave him her verbal consent, then sent him an SMS declaring this again.

Vera must renounce going to Spain since her daughter, in the second form, has serious difficulties at school. Those at home believe that she cannot cope because her parents' absence. Vera thinks otherwise, believing that people at home, especially her mother, who tended the child, have exaggerated her protection under the title of her „being a poor child with no mother", and inoculated her with a helplessness because „she had no parents anyway", and hence cannot cope at school, on general principle. She thinks she would get sick herself if someone told her she was sick often enough.

These life examples highlight the fact that women's migration draws the consequence of redefining direct care giving responsibilities in transnational families. Only in a few cases have these tasks been taken over by non-family members are rarely by men at home (mostly in Cluj county), and I must emphasize, that usually non-migrant women substitute for migrant ones (even in Cluj county, where there are men at home as well). Non-migrant women that take over care giving tasks play a role just as important in the life of transnational families as migrant women, especially

in Bistrița-Năsăud county where women stay abroad for longer whiles. The functionality of transnational families depends directly on the functioning of this transfer of care.

Transnational relations

Functioning of the transnational family is facilitated by the global nature and technology of communication, the fast and relatively cheap transportation and fast money transfer services.

Women in my research maintain family intimacy "virtually", communicating regularly with those at home (daily in most cases, to weekly in least) (Wilding, 2006). The phone is the most used, but I have met two cases where the internet was used, in order that the women maintain an active relationship with those at home, that entails, beside mutual affective support, the involvement of migrants in decisions taken together. Thus, migrant women assign tasks from a distance, check their fulfillment and offer rewards, mostly material. Beyond regular communication that becomes like a ritual in the family – exact hours and/or days for communication – the mobile phone is a compulsory accessory of those at home and of migrant women. Moreover, SMS-s, being cheap, are often sent just to communicate (often are several exchanged between mothers and children). Due to regular mass transport schedules developed lately between origin and target communities, there is a constant flux of material objects that ensure an indirect contact between those abroad and those at home. Thus, through monthly or weekly packages, gifts are sent, even food and daily use products, but mostly pictures and video recordings (especially in areas where internet access is scarce) (Zontini, 2004). Money often gets to the country through these packages or even more often through fast money transfer services or common access to bank accounts. The way in which money is spent by the recipients at home is decided in most cases by the whole family, indeed the money is spent for things agreed upon in advance. In Romania we can also observe mutual visits especially between women and children, much more frequently than in other countries: for example, in the Ukraine (Piperno, 2007), in the Philippines (Parreñas, 2005) or in Honduras (Schmalzbauer, 2005), these visits are extremely rare and very seldom. Migrant women from Romania return at least once a year (especially in Bistrița-Năsăsud), mostly during the summer vacation, and they spend 2-3 months at home, and/or return for Christmas and Easter as well (in Cluj the visits are more frequent). In the case when the women do not return to the country, the children and

other transnational family members from Romania visit them during these holidays in the target country. These mutual visits are due to the status of legal migrant that Romanians have access to (Piperno, 2007) and most of all, to cheap transportation. I have not found differences concerning transnational relationships in the two counties, excepting the frequency and duration of the visits.

Irrespective of the target country and the duration of the leave, the bond with those at home, especially in the case of migrant women, plays an important role in the life of transnational families.

The accusation that migrant women jeopardize their family lives

Thus far, we have shown how migrant women actively participate in the lives of transnational families. Through their active participation, they manage to provide their families with financial and emotional support. Transnational communication is very lively within these families. Frequent phone calls and internet calls make it possible that these women be present in the lives of those left home.

In their communities, however, these women are viewed with suspicion and accused to jeopardize their own family lives. Mothers at home, even those with migrant husbands declare they cannot understand how these women sacrifice their children for money. They admit these children have more material support, but maintain that education provided by others instead of the mothers themselves isn't adequate.

These women are viewed suspiciously and are accused that they jeopardize the life of their families. Especially women from the community are vehement in accusing migrant mothers. They admit that these children have indeed more material support, but they believe the education provided by others instead of the mother is not adequate. This defamation of migrant women concerning the integrity of the family and especially the negative effects on children have been confirmed by other research in Romania (Sandu D. et al, 2008; Piperno, 2007) and in other countries with a high number of female migrants (Parreñas, 2006). Flavia Piperno (2007), in her comparative study concerning the feminization of migration and the *„care drain"* (the migration of persons responsible with care giving within a family, in order to provide care giving) in Romania and the Ukraine emphasized that NGOs and the media consider the situation of migrant parents' children as"*de facto* abandonment" in Romania, talking about „social orphans" in the Ukraine. Transnational family members create a series of compensatory strategies that limit the impact of the *care drain*

phenomenon (Piperno, 2007). Parreñas (2006) lists Romania with Poland and the Ukraine as Eastern European countries with predominantly female migration where children are left at home. Transnational families are considered in the Philippines as being „bad", endangering the life of children, proposing a nuclear family model instead – in a quite absurd manner, the Philippine society being based on income from migration, moreover, the existence of transnational families is not a choice but rather a necessity (Parreñas, 2006). In communities where I carried out my research, I faced the same attitude concerning transnational families with a female migrant. The first community to do research in was from Cluj County. Due to the fact that migrant women here are mostly the only adult to migrate for work from the family, I considered that these accusations refer to the growing distance between the woman and the family, and that they perceive it as a break between them. Paradoxically, in Bistrița-Năsăud County I have found the very same accusations even if women followed the husband when migrating and were their partners. The risk of disintegration of the family, the neglect of dependent persons at home was associated with migrant women. The husbands were absent from this negative discourse.

Lia has also tried to go to Italy for work, leaving two teenage girls behind, but gave this up when her present partner, who had just divorced his wife after she migrated for work to Italy, refused to accompany her to the bus because he had already done that with another woman who didn't come back and did not want to loose another one. Vasilica also received an employment offer from Italy; since her children were relatively old, she could have gone. The idea that she being gone, her husband could fall in love with a younger woman and she could loose her family stopped her from leaving. However, both women consider from their own experience that those who became estranged through migration would have done the same anyway, even at home. In spite of this evidence, the fact that some women migrate, leave their children and eventually become estranged of their husbands makes women at home believe that migrant women are irresponsible on the whole.

Rica has been asked by her neighbor to supervise her younger son, who was a pupil in the 10th form, since she and her husband were in Spain, and her older son went to the university. One night, Rica had to face a tough situation: the boy she was supervising organized a party with many other teenagers, they drank alcoholic drinks and the party led to a suicide attempt by one of the girls. Then she quit. In the first part of the narrative, Rica accused her neighbor, making her responsible for the son's behavior. During the narrative I found out that the child's deviant behavior started

years before the mother went abroad, after the father started migrating. While in the 7th form, his form-teacher declared in front of the whole class that the child's father was irresponsible and that he left his family for money. Thereafter the child started to skip the teacher's classes and to join deviant groups. After two years, when the mother migrated following the father, the child already had a rebel attitude. Even while home, the mother lacked authority in his front.

The story of the priest's wife has been the leitmotiv of my research in one of the communities. Respondents told me repeatedly, how the wife migrated, and hence the priest's life was ruined:

The wife of a local priest left for temporary work in Italy, where she had a sister, leaving a 4 years old son at home. She came back only for one or two weeks per year. After 7 years, she came back with her lover, stayed at her husband's house together with the lover, then asked for divorce. The authorities first decided to give the child to the father, but she came back after a while, „bribed" the child with presents and this, 12 of age, old enough to legally decide, and asked to change parents. Thus, she „kidnapped" the boy and cheated the father and the whole community. „Italy has separated them; if you meet money, you meet all kinds of things..."

I haven't verified the story. It is however representative for the Romanian commonplace, much advertised, according to which migrant women jeopardize their families. I hope that the present study managed to show a few counter-examples. Women's voices presented here tell about the way in which transnational families, with migrant women in their ranks, strive and manage to maintain unity and coherence.

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THE ROMANIAN POST-COMMUNIST ELECTORAL REFORM THE INFLUENCE OF THE PRIOR REGIME TYPE ON THE CHOICE OF AN ELECTORAL SYSTEM

KISS CSABA ZSOLT

ABSTRACT. The electoral system is one of the most important political institutions that can shape the democratic characteristic of a country. Taking into account the importance of *democratic* electoral systems the research question this paper is aimed at addressing is: what, if any, is the influence of the prior type of regime, and of the method of power transfer (to democracy) on the design of electoral system in Romania. By way of this analysis specific emphasis will be placed on a bit less documented field, specifically what institutional or social events influence the formation and design of the electoral system in the Romanian context. Of secondary importance (for this paper) are the implications which electoral systems have on the path of democratization.

Keywords: electoral system, transition, democratization, prior regime type, Romania

I. Introduction

The electoral system is one of the most important political institutions that can shape the democratic characteristic of a country. "[Democracy is an] institutional arrangement in which all adult individuals have the power to vote, through free and fair competitive elections, for the chief executive and national legislature" (Lipset & Larkin, 2004, 19), is what Lipset and Larkin consider to be the most incompasing minimal definition of democracy. What this definition very well points out is that indeed democracy is dependent on free and regular elections, governed by set rules. The rules within the institutions of electoral systems have the role of putting into practice the normative concept of 'free and fair' elections, whereas the effects and influence of electoral systems on other institutions of the socio-political framework is well documented (Cox, 1992; Lijphart, 1995, 1999; Farrel, 2001; Norris, 2004; Powell, 2000 Sartori, 1996, etc.) Andreas Schedler, citing Robert Dahl mentions that "the most widely accepted criteria for identifying a country as a democracy (…) are the civil, political rights plus fair, competitive and inclusive elections" (Schedler, 2002, pp. 124)[1].

[1]Personal translation from Romanian: "cele mai larg acceptate criterii pentru identificarea unei tari ca fiind democratice (…) sunt drepturile civile si politice, plus alegerile corecte, competitive si inclusive" (Schedler, 2002, 124).

Of course one needs to admit that the existence and usage of an electoral system is not solely a characteristic of democratic regimes, as electoral systems are used in dictatorial regimes as well, Sartori defines an electoral system through its scope, which is to "translate votes into seats" (Sartori, 1996, 3). But the crucial distinction between the two ways of employing electoral systems is that in a democratic setting their scope is to ensure that people's interests are represented, or that the principles of representative democracy are followed. Whereas in dictatorial regimes their sole purpose is to ensure in the eyes of the world the legitimacy of the ruling party (Preda & Retegan, 2000).

Taking into account the importance of *democratic* electoral systems the research question this paper is aimed at addressing is: what, if any, is the influence of the prior type of regime, and of the method of power transfer (to democracy) on the design of electoral system in Romania. By way of this analysis specific emphasis will be placed on a bit less documented field, specifically what institutional or social events influence the formation and design of the electoral system in the Romanian context. Of secondary importance (for this paper) are the implications which electoral systems have on the path of democratization.

The case under study, by the use of the case study as a tool within the framework of comparative politics, as I mentioned, is Romania. This is motivated due to the exceptionalism of the Romania case as Linz and Stepan (1996) express it. This is in reference both to the prior regime type and type of the effective transition to democracy, but also, I would like to add, Romania's exceptionalism in regards to the type of regime following the fall of communism.

The impact of the prior regime type will be evaluated by way of the comparison between the various electoral system projects that were proposed in what I will generically name "the electoral reform". Speaking of the Romanian case, an electoral system was employed prior to the '89 Revolution so it is proper to speak about a *reform,* when this was radically changed in 1990-1992. Also this was not a simple electoral reform; in fact it was a reform of the society as whole, a broad change of the entire political system - the leap from communism towards democracy. So the electoral reform should not and cannot be seen as a single phenomenon, it should be studied in close connection with the transition process.

To the extent of the aim of this paper I will be heavily relaying on concept incorporated in the transition literature by Juan Linz, Alfred Stepan (1996) and Leslie Homes (1997). On the other hand a significant

importance is attributed to literature on institutional design in post-communist states: Birch et. al. (2002), Benoit (2002), Bernhard (2002), Geddes (1997) and von Beyme (2001). Finally, of course, literature on electoral systems will be used as well: Lijphart, (1995, 1999); Farrel (2001); Sartori (1996).

Following a brief presentation of Romania's exceptionalism and the prior regime type and of the communist electoral system the paper will concentrate on the "revolution" and the transfer of power. Consequently I will undergo an in-depth presentation of the electoral reform followed by an analysis. Conclusion will follow.

II. Exceptionalism of the Romanian Case

In the light of the changes in the structure of states and regime in Eastern Europe through the fall of communism we can speak of the exceptionalism of the Romanian case.

The downfall of communism in the countries of the Warsaw Pact is characterized mostly by peaceful movements, the transition of power being smooth. The immense role of the opposition to communism in the events of 1989 is testimonial to this. In most states we can talk about a 'ruptura pactada – reforma pactada'[2] type of transition (Linz & Stepan, 1996), such as the case of Hungary and Poland for instance.

In December 1989 Romania was the last East European state still controlled by a hardcore communist regime, with little to no opposition activities. In this respect even the activities of the exiled dissident movement are negligible. Adding the fact that the events in Romania were the most violent in nature (with 1033 reported deaths) in that context, and the swiftness of development of the events (only ten days from the first outbreak in Timisoara to the execution of the dictatorial couple) makes the Romanian experience unique in the context.

The exceptionalism of Romania is also discussed by Alfred Stepan and Juan Linz, but under a different light. They use this concept in

[2] The process named reforma pactada – rupture pactada works the following way: 4 actor groups need to be present: moderates of the opposition and moderats of the regime, hard-liners of the opposition and hard-liners pf the regime. The change will be the outcome of the negotiations (pact) between the moderates of the regime and moderates of the opposition, while excluding the hard-liners of both sides. Nonetheless two conditions need to be fulfilled: the moderates within the regime need to have sufficient autonomy and the moderates in the opposition need to have a degree of organizational presence and power. This type of transition can only exist in authoritarianism and post-totalitarianism. It cannot exist in totalitarianism and Sultanism (Linz & Stepan, 1996).

reference to the type of regime: in essence Ceausescu's rule was a patrimonial, totalitarian-cum-sultanic[3] regime. As opposed to Romania most Eastern European states (e.g. Poland, Hungary, etc.) were developed post-totalitarian system, where light opposition movements could exist. This, in fact allowed for the pacted transition to occur in these states.

Due to these elements, both the regime type and the structural characteristics of the events themselves, we can speak of the exceptional character of Romania in relation with the other East European states.

III. Type of the Prior Regime

As I mentioned Romania is regarded to be a sultanist state. Sultanism is to be understood on four levels: 1. leadership is personalistic and arbitrary; 2. pluralism is to most extents absent; 3. Ideology: the regime functioned on the Stalinist view on communism (we can even speak of anti-soviet Stalinism); 4. Mobilization: extremely high within society (Linz; Stepan, 1996).

In the case of Romania we can be talking of a highly arbitrary and personalistic leadership in which ideology becomes a quotidian shape-shifting tool in the hands of the Leader. The greatest implication of this type of regime is the absence of pluralism, civil society and organized opposition movements: a report of Radio Free Europe from 1989 (Linz & Stepan, 1996, 352) showed that in Romania there were only two individual organizations which in some way opposed the regime, but their leaders were not known to the public (as opposed to Poland where there were 65 such organizations, or the GDR where there were 9). Also there was not even a single anti-regime publication edited, not even underground. Thus it is established that the main implication of this type of regime is the almost absolute absence of organized opposition, in defense of this idea the authors state that "[i]n no country was the penetration by, and fear of, the ruler and his security services so intense" (Linz & Stepan, 1996, 353). Thus when the system fell there was no pro-democratic movement or publically known person that could play the role of a credible, relatively

[3] Linz and Stepan differentiate between 4 types of non-democratic systems: authoritarian, totalitarian, post-totalitarian and sultanic. The authoritarian type of regime can posses most necessary institutions for democracy except the political society, and the democratic rules and institutions need to be legitimized (e.g. Spain in the 70's). In the case of a totalitarian regime such like the communist regimes not only the economic and political society need to be reconfigured but each and every dimension of democracy (see Linz and Stepan). Mean while in post-totalitarianism democratization can more easily arise. The post-totalitarian regime (such as in Hungary and Poland in 1989) is a more developed type of society where the freedoms increase and limited competition (opposition) to the regime is permitted or tolerated. Sultanism will be presented in the text of this paper.

strong contender for the state power (Linz & Stepan, 1996, 354). Of course this must be seen in comparison with other Eastern European states which were already developed into post-totalitarian regimes and opposition movements did exist (e.g. Solidarnosk in Poland).

IV. The Communist Electoral System

In 1923 a new Constitution was introduced in Romania. It was one of the most liberal constitutions of the time in Europe. A democratic electoral system was introduced and the right to vote was extended to all citizens. The system used was a PR system. This was used to elect the two members of the two chambers of Parliament the Senate and the Chamber of Deputies. At this moment in time Romania was a constitutional monarchy.

In 1950, after the brutal takeover of Romania by the communists, and the declaration of the People's Republic, the electoral system was changed, and the Senate was abolished. This ended the parliamentary tradition. The new system was a one-party, one-candidate electoral system. According to the new law the right to vote was granted only to working people, and former landowners, industrialists, bankers, businessmen, etc, were excluded as they were not considered working people[4]. The ballot was secret, but it only could be cast for or against a candidate who was carefully chosen by the party leadership. The ballots were counted by a party controlled electoral commission, so the secrecy of the ballot was meaningless (Fischer-Galati, 1957). The elections were neither free, nor fair and certainly not competitive. Although towards the end of the regime it sometimes happened that there were two candidates on the ballot both communists, and approved by the Party, but still the elections cannot be viewed as competitive.

As I stated in the opening paragraphs the elections were symbolic, the sole scope was to insure a degree of legitimacy to the ruling and sole party. Theoretically the elections were free; people had the constitutional right to vote against the Party by not putting the stamp on the name of the candidate or more by simply not voting. In theory this works, but people who did not vote for the party would find themselves persecuted, as such a record was kept. Further more this also applies to turnout.

After the fall of the communist party in December '89 the system was changed to a democratic electoral system which would be used for the

[4] Of course this situation was normalized during the course of time as the predecessors of these people became working people, so by the end of the 1980's the right to vote was virtually universal. Exceptions, of course, were the "political prisoners".

purpose it was created for, that is to transform votes into seats for competing parties, and not just to legitimize an illegitimate power.

For the purpose of this paper is to show the significance of prior regime type and transition type on the change of the electoral system, the next chapter will present the issues related to the transfer of power.

V. The Transition of Power

In December 1989 the communist regime was overthrown and Ceausescu and his wife were executed on Christmas Day. It was the end of the dictatorship; the "revolution had won"[5]. But was it really the end of communism?

There are two theories about the so-called Romanian "revolution". One states that in December 1989 in Romania really took place a revolution, which was victorious and had overturned the communist government and had imposed a provisionary government: the National Salvation Front. My documented view on the subject is to agree with the second theory which postulates that in fact there was no revolution, but a coup d'état coupled with a popular rebellion (Kiss, 2006). Irrespective of which view one takes, one thing is certain: the leadership of Romania was conserved in the hands of high raking communists, which overnight became "democrats", that is, pseudo or crypto-communists (Agh, 1998), fact which is in close connection with the absence of organized opposition movements. These aspects are crucial to the discussion on institutional design so allow me to elaborate.

The Romanian case by start rules out the possibility of a reforma pactada - ruptura pactada[6] because both fundamental conditions are missing: the existence of moderates within the regime and the existence of relatively powerful and opened opposition (Linz & Stepan, 1996, 356). Following this, Linz and Stepan argue the idea of "captured revolution" on the basis of the following interpretation: the exact combination of totalitarianism and sultanism makes the regime impermeable to non-violent change (Linz & Stepan, 1996, 357). I believe that the thesis of captured revolution is not suported by the empirical evidence (Kiss, 2006), a better explanation is that of the coup carried out by highr ranking communists and the second eschalones of the party. This is consistent with stability of the regime against non-violnet change idea.

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[5] This is a common colloquial phrase used by the participants in the "revolution" and by the new state power.

[6] As for instance in Hungary or Poland where such a pacted transition was possible. In Hungary communism fell at the round table where the representatives of the communists and the opposition decided to organize free elections.

Thus I argue that the fall of communism in Romania might not have happened during the events of December 1989 despite their democratic appearance. The reason for this is that first: power was maintained in the hands of the either high ranking party members and the second echelons of the now ex-nomenklatura. Claude Karnoouh offers an anecdote: "The communist power is dead! Long live the *mass* parliamentary democracy!"[7]. Second, it is Linz and Stepan that argue that it is precisely the sultanic characteristic of the regime which permitted the stay in power, under the auspices of the 'decapitation of communism', of the secondary elites of the former regime (Linz & Stepan, 1996, 356), which was augmented, as I stated before, by the absence of a minimaly organised oposition.

In this context the interesting thing about the Romanian transition of power from communism to "democracy" is that there never was a power shortage, as the communist government was forced to step down, the provisionary government took over (Agh, 1998). This government was the National Salvation Front. The NSF was created as a democratic organism and provisional government until the date of the first elections. It was in charge of the organization of elections. But before the elections The NSF transformed into a political party which ran in the very elections it was organizing in April 1990. It might be important to note that while at its founding the NSF was comprised of as well of people with openness towards democracy, but they were gradually left or were eliminated, being replaced by the former acolytes of the regime.

Ending the discussion regarding the change of the regime I think that the most simple and best evidence in regards to what I contend (communism did not fall in December, but was a lengthy process which reached its end in 1996, when the opposition won the elections) is the '*mineriadă*'[8] which took place in Bucharest.

VI. The Electoral Reform

During the time the NSF was governing significant changes were made to the political system. The most important for our discussion are:

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[7] Personal translation from the Romanian quote: ,,Puterea comunista a murit! Traiasa democratia parlamentara de masa!" (Karnoouh, 2000, 16)

[8] The tern refers to the calling by the government (specifically Iliescu) to Bucharest of the miners from the Jiu Valley mining district. The call was made for the miners to reestablish the democratic order, which was threatened by the protest of students and historical democratic parties against the government. The protesters were claiming that the NSF is nothing more then a continuation of the communist party. The miners did come and physically abused anyone how looked like a student or intellectual and they devastated the offices of the opposition parties.

1.Termination of all communist institutions; 2. Reorganizing the parliament, following the historical heritage of the 1923 Constitution as a bicameral legislative with the lower chamber being The Chamber of Deputes and The Senate as the higher chamber; 3. The acknowledgement of a multiparty system, which led to the reinstatement of the historical parties; 4. Putting the basis of a new constitution; 5.The introduction of a new electoral system. The process of designing a new electoral system was inter-related with all the above mentioned (Deleanu, 1999).

An important point to bring into bare in mind is that according to some authors the institutional were designed having one concern in mind, which is for no group or person to be able to seize power and impose once again a dictatorial regime (Curt, 2002).

In the following paragraphs I will present the main electoral system projects, while the following chapter will be oriented towards the analysis.

In Romania we can consider that the final form of the electoral law, which was reached in 1992 (and was employed until 2007), had four distinct stages and underwent numerous changes.

The first post-communist electoral law was emitted by the Provisional Institutions (The Council of the National Salvation Front) after the "revolution". The proposal for the "Law on the Election of Parliament, the President of Romania, and Local Councils" was submitted for public debate on the 1st of February 1990. The draft was influenced by the Romanian inter-war democratic traditions, and western ideas of the time. The draft proposed the following: bicameral parliament, with the Senate having permanent members appointed by law; the two chambers in Joint Session will form the Constituent Assembly; direct presidential elections; majoritarian two-round system of elections in single member constituencies; proportional representation of all nationalities (referring to ethnic groups): elected deputies were to declare their ethnicity this would ensure that the minorities were represented according to their proportion in the population. Compensatory seats would be allocated for this purpose. This introduced some idea of proportional representation.

The public debate mainly concentrated on the proposal of a majoritarian system. This was seen as being dubious. Considering the outcome of the debate a second draft was proposed. This represents the second stage.

The initial proposal for a majoritarian system was dropped as is was seen as incompatible with the principle of proportional representation and it was considered as not being the best choice for strengthening political parties. The new bill proposed list-PR, based on regional constituencies.

There was a disagreement on the idea of territorial representation versus proportional representation of each party's share of the vote. The NSF (which had turned into a political party) was sustaining the idea of territorial representation as this would have strongly increased their vote share. Finally, it gave in because territorial representation would have massively decreased the representation of the opposition (which was formed by the historical parties) and this would not have been seen as democratic by the international observers. The agreement that was reached for the system according to which the April 1990 elections were held. Regional party lists were accepted, a Hare Quota was introduced at the district level, but different rules were to apply if seats were not filled by the full quotas. In Senate elections largest remainders would be used at constituency level. For the Chamber of Deputies the remaining votes would be aggregated nationally and allocated through the d'Hondt method.

In between the second a third stage there is another issue to consider. This is represented by the discussions (and their outcome) on the matter of the electoral procedures that were held in the Constituent Assembly. The most debated subject was the design of Parliament (uni or bicameral). The preferred version was the bicameral system where the Chamber of Deputes would be elected by PR and it should represent parties and ethnic groups, whereas the members of the Senate should be elected directly in single-member districts, and they should represent the place. No binding decisions were made (Boc, 2000; Deleanu, 1999).

The third stage of the process is the implementation of the Electoral Law, which was passed on 15th of June 1992. The government bill sent to the Parliament was something new which did not take into account the prior discussions: closed-list PR for both chambers, based on 42 constituencies, a quota of representation (70000 citizens for a deputy and 140000 citizens for a senator) and the redistribution of seats on a national level using the d'Hondt formula. The base for the change was argued to be the fact that a single member district system would undermine parties. A threshold was introduced; the level was set at 3%. (Deleanu, 1999). Moreover special representation was assured to each ethnic group that received on a national level the minimum number of votes by which a deputy was elected in the given election.

A different relevant point of discussion was the timing of the parliamentary and presidential elections, the government preferred concurrent elections, while the opposition non-concurrent elections. Finally the opposition gave in and concurrent elections were established.

VII. The Electoral Reform Analyzed

The effect of the type of transition and of the type of prior regime

Considering the facts outlined in chapter III, and emphasizing the fact that in Romania there was no revolution but a coup d'état, is natural to conclude that the NSF was formed out of communists which auto proclaimed themselves as democrats (Agh, 1998). Of course following this idea it can be stated that the NSF, the provisional governing body, which later turned into a political party, is a continuation of the communist party (Petras-Voicu, 1995). At this point it reasonable to assume that the goal of the NSF was to stay in power, and the way it could do this was through a favorable electoral system. Defining electoral systems Giovanni Sartori states that in the moment they are introduced, the electoral systems become causal factors which produce consequences over consequences and this why politicians are so interested in them (Sartori, 1997, 27).

In this context when speaking of the implementation of electoral systems in Eastern and Central Europe, Farrel identifies a new type of electoral system adoption: 'conscious design' and mentions (citing Reilly and Reynolds) that states felt the need and the utility of a 'well crafted' electoral system (Farrel, 2001, 179) as a constitutional corner stone for new democracies. Of course this seems a logical framework to be applied, but I do believe that it does not clearly reflect the Romanian reality.

On the other hand Barbara Geddes states that the people who are called upon to make the change, to determine what electoral procedures will used are self-interested and follow their personal interests befor anything else, further more, continues Geddes, their personal interest is oriented towards the development of their personal political career. (Geddes, 1997, 18). Even more, Holmes (1997), von Beyme (2001), Benoit[9] (2002) and Bernhard (2002) adopt this idea, only with moderate variations.

My main idea is that institutional design (including the design of electoral systems) is based on a model which encompasses a set of actors which negotiate in order to reach the best possible result for them and their cause. In this case the type of transition can only have a secondary effect in the following way: the type of transition influences the position and negotiating power of the second echelon of the nomenklatura.

As empirics shows the great amount of power of the NSF is easily verifiable. Moreover the power of NSF is amplified due to the fact that communist parties had considerable advantages regarding local organizations

[9] Benoit even speaks of 'power maximization'

in comparison with the 'new' political parties; moreover, communist parties might still control media institutions and state resources (Linz and Stepan, 1996). Further more these two characteristics of communist following parties are potentiated in the case of Romania by the fact that the NSF aside from becoming a political party was also the Provisional Government. A third element regarding the NSF is its popularity.

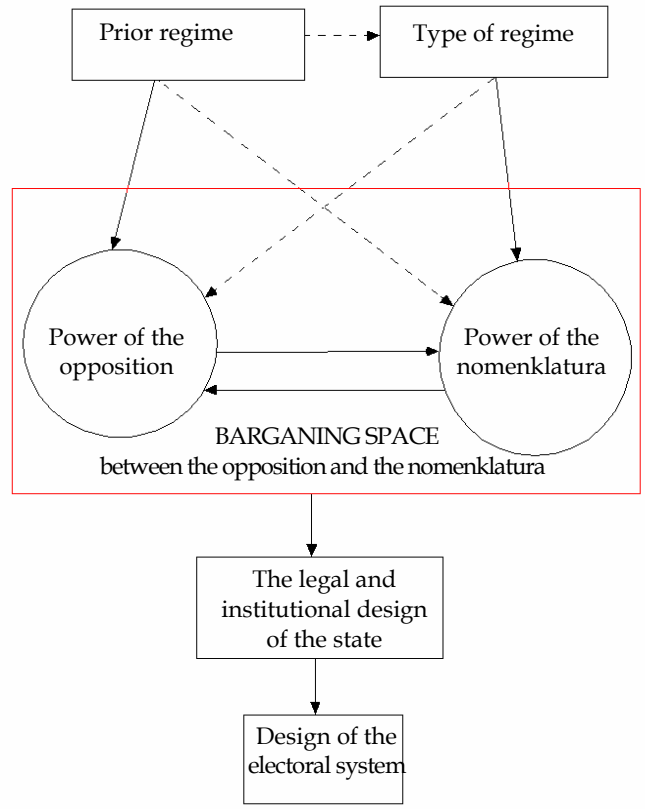

Figure 1. – The bargaining process between the opposition and the nomenklatura
– – ▶ indirect influence
——▶ direct influence

Due to the type of the prior regime the newly founded democratic opposition (consisting of the historical parties and returned dissidents) was very weak. As shown in Chapter IV, the sultanic character of the regime did not allow for any opposition forces.

Further more considering the fact that the change of the regime was not caused by the activity of such an opposition the influence and negotiating power of the democratic parties was more then limited. The model of bargaining between the opposition and the nomenklatura is presented in Figure 1[10].

At this point one might conclude that, according to the decision making framework, the NSF was able to impose the electoral system its chose. But in reality this was not the case.

The members of the NSF, at that time, due to the way the "revolution" was portrayed and due to the control of the content of the

mass-media were mainly seen in the public eye as the embodiment of the 'successful revolution', the 'salvation' from communism[10].

While, as shown, the type of the transition to democracy has the means to affect power of the party following the communist party, the type of the prior regime, on the other hand, influences the power of the opposition.

As Barbara Geddes (1997) points it out, in post-communist regimes the parties that continued the communist tradition (the NSF in our case) prefer majoritarian systems. This is because of: 1. the overestimations of their own popularity; 2. the desire of the politicians of the party to run in their own name as not to be hindered by the party label; and 3. the intact control at the local level (Geddes, 1996, 22). Indeed on the 1st of February 1990 the NSF was proposed a majoritarian system with two rounds for the election of both chambers of Parliament. It is evident (see Chapter VI) that such a system was not adopted even though it was in the power of the NSF to do so, and further more, given the theoretical framework, this indeed should have been the outcome. But PR was chosen. The following subchapter will have the scope of solving this puzzle.

The electoral choice and its implications

According to the idea mentioned above in Romania a majoritarian system should be functioning. Even though according to Farrel's (2001) microcosm and principal-agent theory the logical choice is the proportional system, because the aim was for parliament to be a proportional representation of the population. Of course empirical evidence shows that this was the case (see Chapter VI), even though the proposal resurfaced in the Constituent Assembly, but here as well it was kept at a purely discursive stage.

The first argument is that the abandonment of the idea of majoritarianism can be seen as a sign of self-sufficiency on the part of the NSF, as they were convinced that they will win the election irrespective of the shape of the electoral system (Geddes, 1996, 27) as both communist

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[10] Even though the NSF was not mainly supported by urban citizens and intellectuals. Kenneth Janda states that in Romania the communists stayed in power until 1992.

[10] Even though the main and most important influence on the power of the opposition come from the prior regime type, and those on the power of the second echelon of the nomenklatura are influenced by the type of regime change, it is important to note that the prior regime type also sets the base of the power of the nomenklatura (and it can also influence the type of regime change as pointed out by Linz and Stepan), thus indirectly influencing the power of the nomenklatura after the fall of communism. Moreover the type of regime change also can indirectly have some influence the power of the opposition, but this is not the case of Romania.

parties and new democratic parties overestimate the amount of support there is in the society for communist parties (von Beyme, 2001).

Secondly, one of the circulated arguments of the adoption of PR was that a majoritarian system would weaken parties. But then it is fairly obvious according to Lijphart and Duverger (Duverger's Law) that a majoritarian system usually produces a strong two party system (Lijphart, 1999).

Also I believe that the adoption of the current PR system was also helped by the fact that the NSF was conscious that if they were to employ a majoritarian system against the will of the opposition they and receive a high majority in an election this would discredit the regime in the international field. Of course the role of the opposition does exist but, if fact its role was less then crucial, as I mentioned the NSF was councious that they would win under any electoral system.

A last point I would like to make is that throughout debates all parties presented somewhat incoherent positions, each of them trying to maximize their potential reach of power (Birch et.al., 2002). This process was cumbersome due to the lack of knowledge of the members of NSF and lack of understanding of the matters relating to institutional design (Boc, 2000), thus I do believe that some hazard was involved as well.

Another interesting point I would like to bring up is the wish of the NSF (which was in government in 1991- 1992, at the time of this discussion) to have concurrent elections for parliament and the president. According to Shugart having these two elections on the same day will tend to influence the vote share of the parties as the presidential candidate can actually campaign for the party (Shugart, 1992). The party will increase its vote share by way of the presidential candidate's coattails. This is telling in our situation as the incumbent candidate for president (Ion Iliescu) had an overwhelming popularity.

Addressing the debate of closed-list versus open-list PR, in my opinion the closed list system increases the chances of the members of parliament being controlled by a party's central organs, as their place on the list at the next elections is in the party's hands. This is in typical communist tradition, as the party wants to be able to control its members.

A final comment I believe is worth regarding the overall design of the political system. Lijphart gives an outline of two major models of democratic regimes which are the Westminster model and the consensus model, the characteristic of one being the PR and of the other the majoritarian system or the plurality rule (Lijphart, 1999). Lijphart also discuses other characteristics of the two models, Romania, does not fit into

either, from the legislative design (but the functions of the two chambers are identical) and the electoral system, it is a consensus democracy, but it is a highly centralized and unitary state, a characteristic of the latter. This contradiction can be answered in two ways: Firstly, the shaping of the Romanian post-communist political system was strongly influenced by history, specifically the inter war political system. By returning to the past system it was tried to paint a picture of continuity of the Romanian democratic tradition (Birch et. al. 2002; Curt, 2002). Second, all steps were taken to insure that power cannot be obtained in a constitutional way by a single item (Curt, 2002).

All in all I believe that the choice indeed was a statement in regards to the power of the NSF. The role of the opposition was at best limited. The outcome is I believe positioned somewhere between rational calculations within the NSF and hazard. Romanian politicians which were involved in the process of crafting the electoral system were not well informed neither were they knowledgeable about the discussions at hand. It is easy to observe that not the development of a coherent political system was the main point but the maximization of power.

VIII. Conclusion

This paper was aimed at examining the relation between the prior regime type and the type of transitions on the design of the electoral system in Romania. The analysis showed that these effects are limited and indirect. They are manifested through the influence they have on the level of power the NSF and the opposition have within the negotiations of electoral and institutional design. The findings presented here are also upheld by the analysis carried out by von Beyme. He shows that in Eastern Europe the type of transition towards democracy had at the most a limited influence on the design of the electoral system (von Beyme, 2001, 20).

In Romania the electoral system was changed but this is not enough for transition to be complete. This is just the formal leap (nonetheless very important) from the communist type system to a democratic one. The societal mentality needs to change as well. Democracy and democratic behavior need to be learned.

Nowadays Romania has passed this critical point and it is considered a consolidating democracy. Moreover the electoral system was very recently changed in mixed-member proportional system, in order to 'bring politics closer to the citizen' and give the opportunity for a personal vote.

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ACCOUNTABILITY DEFICIT: HORIZONTAL OR VERTICAL? THE CASE OF THE DIRECTORATE FOR COMPETITION POLICY IN THE EUROPEAN UNION

TOMA BUREAN

ABSTRACT. The paper explores the competition policy in the European Union. In a domain in which the European Union is considered most successful it is extremely hard to find accountability tools. Comments amount towards the European Union directorate that is not transparent and that decisions are not sufficiently supported by arguments. There fore the paper discusses the reason behind the lack of accountability criticisms by looking at two models of accountability. One that considers that there should be a vertical relationship between the accountability *holder* and accountability *holdee* with delegation involved, and the second, that views horizontal linkages between agents equal in power as efficient mechanisms. The directorate general on competition suffers from the "democratically deficient" stigma because it is too far from the citizens on the vertical relationship and much too close to its horizontal counterparts that are the European Court of Justice and the Court of First Instance and European Commission.

Keywords: accountability, competition policy, horizontal accountability, European Union, democratic deficit

Introduction

The paper explores the competition policy in the European Union. In a domain in which the European Union is considered most successful it is extremely hard to find accountability tools. Comments amount towards the European Union directorates that are not transparent and that decisions are not sufficiently supported by arguments. Therefore the paper discusses the reason behind the lack of accountability criticisms by looking at two models of accountability. One that considers that there should be a vertical relationship between the accountability *holder* and accountability *holdee* with delegation involved, and the second, that views horizontal linkages between agents equal in power as efficient mechanisms. The directorate general on competition suffers from the "democratically deficient" stigma because it is too far from the citizens on the vertical relationship and much too close to its horizontal counterparts that are the European Court of Justice and the Court of First Instance and European Commission.

In the now extensive literature on the European Unions' mode of governance there is extensive discussion and controversy about how to create, innovate a way of making decisions in a system that is less than a federal state and more than an international organization. However, with the entire debate that goes on, "with a few, but significant exceptions" scholars agree that there is an accountability deficit in the way the European Unions institutions are functioning. More precisely it is about the lack of capacity to control, overview and eventually punish the European Union policy makers. The second, closely linked criticism is aimed at what is to be accounted for. That is there is a lack of transparency about procedures, namely, because of their informal character. Some authors (Guy Peters: 2004) have talked about the multi level governance as making a Faustian bargain others that "political considerations play too great part in the decision-making process itself".

There is a need to clarify the conceptual tools that are at use when critics employ the term accountability deficit. Accountability became a buzzword or a slogan that makes us not think about it too much (Behn p. 6). However, this paper proposes two alternative ways of analyzing in theory the capacity to control in the European Union. As an illustration, the Directorate General for Competition (DGC) will be overviewed. The article claims that the DGC, although the most successful, is not accountable, because it is too far from the consumers, if we think of accountability on vertical, electoral terms, and too close to the other institutions of the European Union, for them to be able to sanction, control or overview its activity. Hence, the DGC, whenever receives criticisms at the intergovernmental conferences it will initiate reforms by itself but no one will be sanctioned for wrong doings; hence, the accountability deficit.

An alternative reason of the perception of the lack of accountability lies in the very nature of the multi-level governance concept that assumes that by soft methods of coordination and discussion there will never be a case where sanctions could be applied or deadlock might occur.

Theories of Vertical Accountability

Many people, agencies, state institutions, international organizations are involved in accountability. The parliamentarians have to account for their deeds, the local mayor for the clean roads, the social protection agencies for finding new jobs and so on. It has become a democratic standard according to which institutions or people are abiding to democratic norms. More precisely they are abiding to the idea that democracy is about

citizens having the power to sanction or punish decisions of state agents. The emphasis is mainly put on the capacity to punish. Thus, for someone who is in the difficult position of having to account for the deeds, there are two options: if you have done your job well nothing will happen, but if you have done something wrong you might suffer from public humiliation, lose your job or even go to jail. There is no appraisal if you have done your job well. Yet there is a lot waiting for you if you screw up.

The classical definitions mention the terms answerable, or capable of being accounted for or "a relationship in which and individual or agency is held to answer for performance that involves some delegation of authority to act" (International Encyclopaedia of Public Policy and Administration, Barbara Romzek and Melvin Dubnick).

Both concepts entail interaction between two actors. Fearon (1999) in his definition of accountability emphasizes the nature of this bond. "We say that one person A, is accountable to another B, if two conditions are met. First, there is and understanding that A is obliged to act in some way on behalf of B. Second B is empowered by some formal institutional or perhaps informal rules to sanction or reward A for her activities or performance in this capacity."

There are two cases in which vertical accountability occurs. The first is prospective. Political parties present policy programs to voters and try to convince them that the policy program is for the welfare of the citizens. Elections refer to selection of one of these policy programs. The winning government then follows and implements the policy program that citizens selected. The winning platform becomes the mandate of the government. The second view is retrospective and Przeworski (1999) calls it the accountability view. The aim of election is to hold responsible governments for past actions. Representatives then make calculations in order to get positive evaluations from the voters. There are problematic issues with both views. Politicians have also their own goals and aims. Second politicians might be obliged to satisfy special interests and not to serve the public. Third voters are "information misers" and they cannot know retrospectively or prospectively what politicians have done or wanted to do.

Przeworski (1999) and Fearon (1999) focused on the classical view of accountability drawn from principal-agent theory and political representation. They assume that on the one hand there is a principal that is the holder of the legitimate democratic power. The principal is, in democratic theory, a collective actor but exceptions might occur. It can be the citizenry of one state or a majority. At the other end of the linkage there is the agent. The

agent can be either an individual (a king or a president, representative), an institution (political party), or a group of people (Parliament). The accountability concept often is explained through the most restrictive framework i.e. between two individuals. Przeworski, Fearon and others (Manin 1997, Pitkin 1967) frame the representative/accountability linkages between two individuals probably to be more explicit. Yet it is more often the case that those who are accountability holders are many or even conflicting groups and the accountability holdees are agencies of the state that draw their delegative powers not from the people but from other state agencies. The European Union institutions are often very far from the classical direct bond between the agent/representative and the principals/citizens. Therefore, to conclude this part, the problem of multiple principals and multiple agents is not covered by the theory of vertical electoral accountability. It does not cover the entire phenomenon of accountability, yet, it is often used as a framework upon which the European Union institutions are heavily criticized.

Andreas Schedler responds in the same manner as R. Behn to the overwhelming attention that the concept of accountability received. (Schedler, p.13). He also refers to the fuzziness of its use and identifies two connotations: answerability and enforcement (Schedler, p14). Answerability points to: "the obligation of public officials to inform about and to explain what they are doing and enforcement is the capacity of accounting agencies to impose sanctions on power holders who have violated their public duties." (Schedler p. 14). The public agents have to either account for or/and explain their decisions. Thus one dimension of accountability includes overview and scrutiny.

Enforcement is about making sure that the results of the overview and scrutiny are respected. The capacity to punish is what makes accountability mechanism so important. Yet it has to be clear that accountability does not equal punishment. It is about evaluation of the decisions public officials take about their conduct, bureaucratic acts and rule of law and possible punishment if the standards, according to which the accountability holdee is judged, are not respected.

Holding people accountable has an influence over performance. Rules of control, scrutiny, costly evaluations may hinder performance. This is called the "accountability dilemma". Officials have to abide by certain rules that ensure proper conduct and decision-making yet, it destroys risk taking and innovation. A public official that respects all the rules and abides by them and makes perfect evaluations, can score high on a financial

or bureaucratic accountability score sheet. However, when the same public official would be evaluated by innovative proposals and speed of decisions making the results of the evaluation might be worse. Accountability is not associated with inventiveness or innovation, but with rule compliance. At the end, it all depends on what whether we are after performance with less control (outcome) or compliance to procedure but slow pace of decision-making (process).

Theories of Horizontal Accountability

The term belongs to Guillermo O'Donnell (2003) and he defines it as: "The existence of state agencies that are legally enabled and empowered and factually willing and able to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful (O'Donnell: 2003 p. 34). O'Donnell points to two subjects of horizontal accountability. One is the "unlawful *encroachment* by one state agency upon the proper authority of another" (p.34) and the second is *corruption*. In order to be clearer the author differentiates between all intra-state agency relations by defining horizontal accountability as a subset that is characterized by an action taken by a state agent with the purpose of preventing, canceling, redressing or punishing actions by another state agent. It can also be that one state agency, through another agency (a court most often) points to the unlawful actions of another state agency.

The concept was hotly debated by scholars (Guillermo O'Donnell, Charles D. Kenney, Richard L. Sklar, Philippe C. Schmitter or Marc F. Plattner) and until now it is not clear whether this concept explains phenomena that are new or it is just a label for phenomena that are covered by other concepts like checks and balances.

The origins of horizontal accountability are liberal in nature, stemming from the checks and balances theory[1]. Individuals, leaders (and not institutions by themselves) are endowed with power to make good public policies and to solve some collective action problems. On the other hand there is a shared belief that once and organization, individual,

[1] Here I argue against the distinction made by Charles D. Kenney (2003) between checks and balances and horizontal accountability (p. 60). Kenney emphasizes the role of division of power theory when drawing the distinction and forgets that checks and balances includes a balance between the powers of state agents but to the same extent the capacity to check each other. Kenney refers only to balance of power between institutions and neglects the in-between controls, that presupposes the checks and balances concept.

political party has obtained a share of power it will immediately try to abuse it. Therefore mechanisms to control power are deemed necessary. Liberalism stems from a mistrust of political power. Mechanisms of judicial review, checks and balances were crafted to avoid abuse. All these can be considered horizontal tools that are about reciprocal control of state agencies. O'Donnell speaks of a one way direction of controlling. Yet institutions can control, scrutinize each other reciprocally. Thus, state institutions, in the horizontal accountability framework, could be both accountability holders and accountability holdees. Since there is no reciprocal delegation but only careful scrutiny of violations of jurisdictions between agents it can be assumed that control can be legitimately reciprocal. This conception of accountability is distinct from the vertical arrangement that assumes that only the principals, citizens can control the agents and not the other way around. In horizontal accountability state agents are carefully scrutinizing each other and sanction often through an intermediate institution the overstepping of authority or corrupt practices.

When there is a transgression of legally determined boundaries then horizontal balance accountability comes to the fore. A second subtype is the mandated horizontal accountability. Ombudsmen, controllers and accounting officers that are delegated to analyze presumably unlawful actions by other state agencies, exercise it. These agents are delegated and they have to account for their deeds in front of the agency that gave them the power to scrutinize and to control misdeeds. These are accountability holdees, yet they are under a vertical accountability framework. One state agent has delegated its powers to other agents in order to represent them in the accounting business. It seems then useless to distinguish between the two subtypes since in the second case the power to control comes from the same agency as in the first subtype. Thus, in analyzing the directorate general for competition policy reference will be made only to the concept of horizontal accountability.

In order for horizontal accountability to exist there has to be a well developed network of state agencies culminating with high courts that enforce horizontal accountability. O'Donnell makes it clear that horizontal accountability does not only concern nationally elected officials. It also includes national officials, members of state bureaucracy, national or sub national.

The critics of horizontal accountability are many. However, for a concise description of the main problems, it is worth referring to Schmitter's critiques.

1. The first limitation is that horizontal accountability should not be restricted to state agents. The media, labor organizations, private policy centers could all be engaged in horizontal control.
2. The "triggering mechanism" for horizontal accountability should be unlawfulness. This suggests that the law itself is "democratic" and neutral and actions that are legal are legitimate in the eyes of the citizenry. Horizontal accountability should also look for political consequences not only legal ones.
3. O'Donnell thinks about the judiciary, legislative powers and public administration to keep in check the executive. In that case there is no reason why the Central Bank or the head of armed forces, the State Employment Agencies should all be involved in horizontal control. It is not clear which state agents are entitled to have the capacity to exercise horizontal accountability.
4. If O'Donnell refers to unlawfulness as a criterion of exercising horizontal accountability then only retrospective judgments can be offered and the state agencies become reactive instruments.

While over viewing O'Donnell's concept it is tenting to apply it to the European Union network of institutions. What should be remembered is that horizontal accountability was applied within the boundaries of a state. The EU is less than that and more than an international organization. Thus, the jurisdictions of agents/institutions are less clear. They are often overlapping. In this respect, it is more difficult to judge oversteps of authority. Maybe this lack of clarity or responsibilities and jurisdictions accounts for the difficulties to find accountability mechanism.

The subject and object of horizontal accountability (HA) are state agents. Unlike in the case of vertical accountability, agent A was not delegated by agent B for action E. Thus, HA is lacking the delegation component, crucial to vertical electoral accountability. An additional characteristic is that the means of HA are oversight, sanctions and impeachment and finally, "the scope of horizontal accountability (HA) is limited to actions or omissions qualified as unlawful.

In this way, HA accounts for a set of phenomena of relations between state agents whenever one oversteps the authority of another.

In order to analyze horizontal or vertical mechanism of accountability in the Directorate General for Competition, some elements should be made clear. The bases for Directorate on which it makes decisions and scrutinizes the commercial agents are profoundly liberal. Their scope is to protect the consumers/citizens from unfair competition.

They control mergers, state aid and provide antitrust provisions in order to prevent distortions of the market. Thus as an accountability holder the DG is a representative agent for mandated horizontal accountability.

On the other hand, there is a conflict between the way the DG holds accountable big corporations for distorting the competition rules and the way the DG is held accountable for its decisions by the Commission, European Court of Justice or the Court of First Instance. For this accountability relationship the features of multilevel governance apply. Hooghe, Liesbet and Gary Marks (2001) define governance as its aim to satisfy shared goals and a system of rules, but without backing by formal authority and police powers to enforce compliance. They identify two types. The first type is where there are multi task jurisdictions that are mutually exclusive. There are a limited number of jurisdictions organized in a limited number of levels. The second type is task specific with overlapping jurisdictions, unlimited number of jurisdictions and they are intended to be permanent. Type I is exemplified by federalism, regionalization and type II by public/private, national/international, frontiers, local government and community associations. In such a framework of decision making with setting general standards, open method of coordination there is hardly any sense of taking about compliance to norms and enforcement. The accountability deficit comes from the way the directorate general is held accountable either by consumers whom it pretends to protect or the Commission whom it supposes to represent.

The following section will present the characteristics of policy competition and the directorate general for competition. Then I will locate the causes of the accountability deficit on the vertical and the horizontal dimensions.

Competition policy characteristics:

Competition Policy ensures that markets will remain or become competitive. The idea behind enforcement of competition is that it will produce benefits for the consumers and lead to technological innovation. There are three main pillars of competition policy. The first is antitrust regulation that has the aim of controlling the behaviour of companies. The second is merger control that guards the market structures and third is state aid that prevent undue state intervention in the market by helping companies. It has a strong treaty basis and an Autonomous Directorate General IV (DGIV). It is based on a liberal market doctrine. Policy making

follows the regulatory model with limited roles by the Council of Ministers and the European Parliament. (Gowan: 2000)

In the area of competition policy there is a strong degree of decentralisation going on. A multi level pattern is emerging, Commission delegates engage in with third country authorities and international institutions as well as delegates to the national bodies. The European Commission Directorate General for Competition (formerly DGIV) is an example of regulatory model with a strong treaty basis and utilising a supranational legal order. They used 40-year-old treaty provisions and enabling legislation by using concepts like "lock-in" and "unintended consequences". (Gowan 2000)

EU competition policy making developed in the same time with national policies. EU was mainly run by cartels and frequent inter-firm cooperation occurred quite against what US had. Strength of rules and willingness of the Commissions led to the fortune of European competition policy. DGIV and the Commissioner are responsible for competition policy. The powers of the Commission include process notification, consultation procedures with member states, investigative and fining powers. The commission has the right to examine company records and accounts to enter any premises and seek explanation and to levy fines for infringements.

The development of the domain occurred through incremental accumulation of responsibilities and pursuit of common policies. Competition policy remained largely intact and strong leadership was a very important factor.

In the application of competition policy there is a mixture of learning by doing and incremental, phased reforms. (Gowan: 2000) The Commission enjoys large autonomy and The Merger Regulation in 1989 provided the basis for scrutiny and enforcement of concentrations.

The Commission is at the core of competition policy. The Directorate General IV (DGIV) is responsible for administrating the policy and handling individual cases, drafting policy initiatives and liasing with officials in member governments. The Director-General is responsible for the overall direction of policy and liases with the Competition Commissioner

The Characteristics of DGIV:

1. Longevity
2. Ethos – mixture of economic liberalism and commitment to law as a vehicle of integration

3. Lawyers and economists make up the bulk of policy staff 400 people (150 policy officials) still the numbers are low compared to the workload
4. The bulk of DG IV is case based = complaints, notifications and initiatives

The European Court of Justice (ECJ) adjudicates on the basis of complaints from the Commission, member governments or firms. In a policy domain based on the importance of legal powers European Court of Justice has an important role in setting the limits of the Commissions powers yet usually it strengthens the role of the Commission. ECJ criticises the Commission mainly on procedural grounds. In 1989 an additional Court of First Instance has been responsible for the bulk of cases relating to competition policy. (Gowan: 2000)

The roles of European Parliament, Council of Ministers and European Council are limited to consultations. At intergovernmental conferences states grab the opportunity to claim modifications to the competition policy.

The criticisms refer to low pace of decision making, informal system of decision making. The Commission does not reveal the legal and economic reasoning behind decisions (lack of transparency and accountability). The reform (2004) was initiated by the Commission through the delegation of competencies to national authorities.

Looking for accountability deficit

The image of the Directorate General for Competition (formerly Directorate General IV) is as an agent that has the power to keep in check large companies that operate throughout Europe. The Directorate General is legally enabled and empowered by the Commission and by members of national states (indirectly) to take actions that go from routine oversight to criminal sanctions. In case of gross distortion of competition the Directorate General for Competition exercises oversight and executes sanctions with the help of the European Court of Justice and the Court of First Instance.

The complicated notification system was somewhat simplified in 2004. Now the Commission is dealing with gross distortions of the market. Reforms were indeed needed because of some controversial decisions that blocked important mergers in European market.

The DGIV constitutes a good example of a horizontal agent of accountability. The other agents are large corporations that try to lobby the

directorate general to make decisions in their favour. It does not however control only state agents but private companies as well. Large corporations it could be argued have sufficient influence on the market to be considered as equals to the Commissions' directorate. Thus the DG IV has competence to react to any overstepping of jurisdictions by large companies that impede with the functions of competitive markets.

The DG IV is not only a reactive institution. It also has powers to check any company archives any time without pre notification. It can initiate controls and follow sanctions especially financial ones. The Treaty provisions on which the DG IV relies when exercising accountability have an extremely strong legal background. Being under the influence of the liberal doctrine there is no surprise it is the protector of the competitive free market, against the abuses of the national states (state aid) and more importantly against large corporation distorting the market or trying to create monopolies. The DG IV is an agent of horizontal accountability protecting the competitive principles and the consumers' interests.

A different story emerges when trying to find out who is controlling the DG IV. Until now the analysis was concentrating on the directorate as an object of accountability and its success is a proof that it is an effective one. But being an agent of the EU the DG IV should be accountable to someone.

There are not too many institutions that can restrict or overview the decisions of DG IV. The Commissioner for Competition often argued that they serve the best interests of the consumers. It is then a good point of departure to analyse the closeness of the DG IV to the common citizen/consumer. From the very beginning it can be said that the DG IV is far too remote from the ordinary citizen. If we apply the classical electoral accountability model then we realise that there are too many agents involved and a dispersal of legitimate mandate takes place.

The Commission and the national government agreed to the competencies of the DG IV to operate throughout Europe. However, looking at fig 1 we can see that there are successive delegations of power from the principals. Inter-governmental conferences are a tool for national governments to express complaints to the DG IV, but this is insufficient. In theory, citizens should hold accountable parliaments (national and European) that should hold accountable governments (in the case for the European Parliament the Commission should be accountable to the parliamentarians) and the commission holds accountable the directorates including DG IV. But, virtually there are no institutions that could ensure and enforce the directorate to be open and transparent and accountable.

The Council of Ministers, European Council or Parliament cannot sanction the DG IV since these institutions enjoy consultative powers. The complicated overlapping system of jurisdictions is proven hard to be dealt with under the simple framework of agents being controlled by principals.

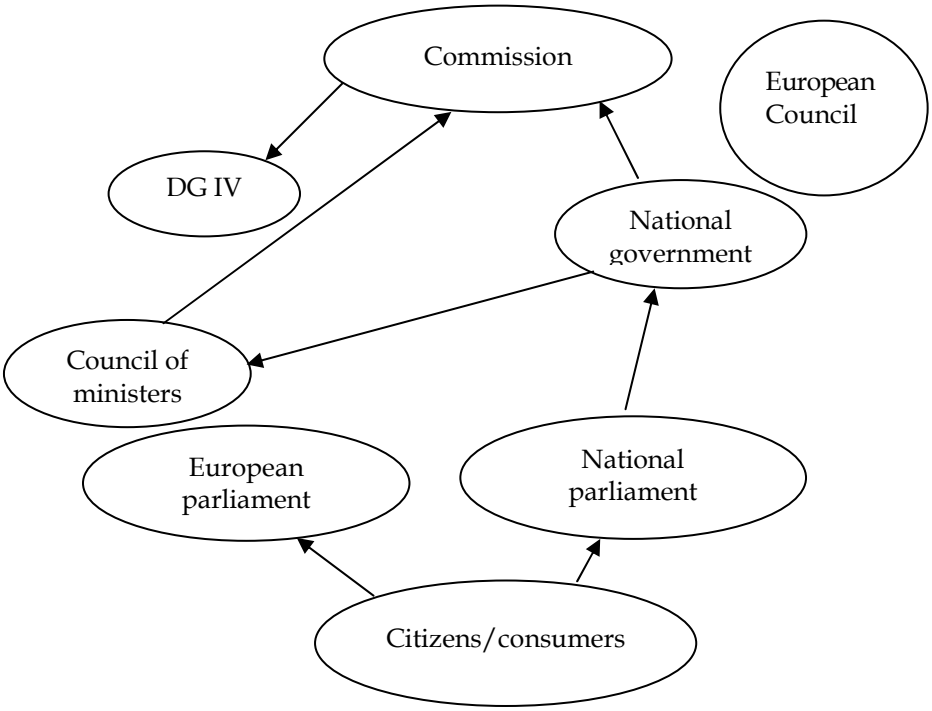

Fig. 1. Agents and principals of electoral accountability over the DG IV

The DG IV had initiatives to come and "bridge the gap" by organizing each a year a Competition Day. These actions are directly targeting citizens/consumers and circumvent the long chain of delegation and accountability/representativeness. How efficient they are is another question.

To conclude, if we use the principal agent, electoral accountability framework there is a deficit in accountability due to too many agent that have overlapping competencies and authorities with no clear linkages from the national to the supranational institutions. For sure for any group of citizens or consumers it would be impossible to "throw the rascals out" from the Directorate General for Competition.

Horizontal accountability could prove itself useful in finding out who controls the directorate. The agents equal in power are the

commissioners and their directorates, European Court of Justice and the Court of First Instance. I omit the Council of Ministers, European Parliament and European Council since they only have consultative roles. The Commissioner for Competition exercises formally vertical control over the directorate. The directorate is the executive branch of the commissioner. Other legitimate institutions that could hold accountable the DG IV are the European Court of Justice and the Court of First Instance.

There are very few cases in which the Courts oppose the DG IV. Usually the European Court of Justice (ECJ) enforces the decisions of the Commission. This can mean that the DG IV is doing a good job or that actually the ECJ is not a horizontal agent of accountability.

The reasons for the fuzziness in finding out mechanisms of checks and balances is due to informality in decision making and unbalanced power distribution in favor of the Commission.

The DG IV directorate is engaged in close contacts with the other DG's when making decisions over overlapping competencies. Sometimes there is conflict but never did any directorate ask the European Court of Justice for instance to control the activities of DG IV because or illegal oversteps of authority. The ECJ are often partners with the Commission. There is room for informality. Consensus oriented politics is followed. The soft modes of governance create a framework of informality, specific jargon and discussion between equals. Accountability, horizontal or vertical or oblique does not make sense in a consensus based decision making process. Due to the fusing of DG IV with the ECJ and the other DGs it is hard to draw boundaries between the accounted and accountants. The multi level governance framework and the open method of coordination backfires and creates the "cozy consensualism" Guy Peters (2004) was talking about.

Thus when trying to employ the horizontal accountability framework we cannot draw clear boundaries and competencies between agents and there is a lack of sanctioning mechanisms due to soft modes of governance. Agents are too close to each other, too informal, hence the accountability deficit on the horizontal level.

Conclusions

The paper had two purposes. One was to debate on the vertical and horizontal accountability concepts in order to search for a framework to analyze the Directorate general for Competition. The second was to apply the two theoretical models to the DG IV and find the reasons for the presupposed accountability deficit.

DG IV is an agent of horizontal accountability towards the large corporations or state governments. It is a one way control since there are not many available formal ways for the corporation to hold accountable the Commission. The legal basis gives the Commission extensive powers to control and sanction companies that do not comply with the regulations and distort the competitive market.

As a subject of accountability the DG for Competition is indirectly accountable to the citizens. The chain of delegation/accountability is so long and complex that it is virtually impossible to punish incumbents of DG IV through the voting mechanism. There are just too many institutions with overlapping competencies that range from the national parliaments, European parliament, national governments, the Commission, Council of Ministers and European Council.

On the horizontal level, DG for competition is closely cooperating with the European Court of Justice and the other Directorate Generals. The Court of First Instance created in 1989 has many of the same jurisdictions as the DG IV. There are very few cases where conflict occurs between these institutions. Where disagreements occur they are not followed by overview and sanctions but by negotiations behind close doors.

To conclude, as an object of horizontal accountability the DG IV is successful in protecting the market from large corporations. As a subject of accountability however it is not accountable to citizens. It is not accountable to its equal counter parts like the other DGs or the ECJ and the Court of First Instance due to the consensus style decision making.

Another equally valid explanation might be that, because the DG IV is an agent of accountability it should not be accountable to other institutions. And the reason for the success of the DG IV may lie in its independence from the other EU institutions. At the same time its failures, that affect the whole European market, are due to insufficient monitoring eyes and lack agents of accountability that have the capacity to levy sanctions when mismanagement takes place.

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ALTERNATIVE MEASURES OF TOLERANCE, OR TOLERANCE V. SOCIAL LIBERALISM? A CROSS-NATIONAL EMPIRICAL TEST

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ABSTRACT. Scholars agree that political tolerance is a key ingredient of democracy, but the question of what exactly do they mean by 'political tolerance' is more controversial. Some define it as a subject's permissiveness toward her least liked group, while others define it as open-mindedness vis-à-vis issues such as homosexuality, prostitution, divorce or abortion. Our goal in this brief research note is to test whether using one or the other definition makes a difference. Using factor analysis of cross-national survey data, we find that the respondents' attitudes toward the two types of issues load on different dimensions. These results indicate that only one of the two dimensions truly captures political tolerance (or libertarianism), while the substantive content of the other dimension relates to social liberalism, rather than political tolerance. This finding is confirmed at the level of individual countries, including Romania.

Keywords: tolerance, authoritarianism, conservatism, cross-national measures, factor analysis

There is a long tradition in political science stressing the central role of political tolerance for democracy (e.g., Lipset 1963, 94-95; Huntington 1991, 37; Dahl 1998, 157). Far more controversial, though, is the precise definition of political tolerance. One school of thought, following in the footsteps of Stouffer (1955), sees the acceptance of alternative worldviews and their open manifestation in the public space as the litmus test of political tolerance. More specifically, this open-mindedness must extend to those groups that the respondent dislikes the most (Sullivan, Pierson and Markus, 1979; 1982). On the other hand, we have scholars such as Inglehart and Baker, who argue that "tolerance of outgroups [is well] measured by acceptance or rejection of homosexuality, a highly sensitive indicator of tolerance toward outgroups in general" (2000, 29; see also Inglehart 1997, 276-80). Inglehart is not alone in this line of argument; for instance, Fish (2005, 88) considers that, "since opposition to *homosexuality* – in contrast to opposition to given racial or ethnic groups,

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immigrants, or even to *homosexuals* – is still socially acceptable outside a few cities in a handful of countries," agreement with the statement 'homosexuality is never justifiable' may be a better measure for intolerance, since "people are more likely to be honest about their intolerance if expressing it seems socially acceptable" (emphasis in original).

Accordingly, these scholars differ in how they measure tolerance among their subjects. Sullivan et al.'s approach is to ask respondents to choose the group they dislike the most from a given list, adjusted to local conditions (e.g., in a cross-national survey, Bosnians will be given a list that includes Serbs, Croats and Muslims, while Iraqi respondents will be given a list that includes Shi'a, Sunnis and Kurds). Then the respondent is asked whether he would be willing to extend certain civil liberties to the members of his least-liked group; willingness to do so is interpreted as an indicator of political tolerance. In contrast, a scholar such as Fish or Inglehart would rather ask their respondents questions such as "is homosexuality acceptable?" If all these scholars really measure the same thing – i.e., political tolerance –, then the respondents' answers to one type of questions will be an excellent predictor of their answers to the other type of questions, and the two measures will be highly correlated. If they are not, the results must be interpreted as an indication that (at least) one of the two measures captures something different than political tolerance.

Other scholars have already looked at the structure of the ideological space in various countries, arguing that political tolerance or libertarianism, one the one hand, and social liberalism, on the other hand, are conceptually distinct, and analyzed data to confirm this distinction empirically. For instance, Grunberg and Schweisguth (2003, 346-54) identify three major partisan blocs in France: left, right, and extreme right. Their analysis of survey data indicates that economic policy positions separate mostly the left and the right electorates, with the electorate of the National Front located in a centrist position; that hostility toward homosexuals and attachment to traditional values separate the left from the right and extreme right electorates; finally, that authoritarianism (what they label 'anti-universalism') separates the extreme right from both the left and the right electorates. Stenner (2005, Ch. 5) used survey data from the 1990-1995 Cumulative World Values Survey to establish a distinction between authoritarianism and status-quo conservatism. She finds out that this distinction is identifiable among the respondents from both Western and Eastern Europe.

The goal of this research note is to test whether the questions relating to the respondents' rejection of 'deviant' social behavior such as homosexuality do indeed capture intolerance or authoritarianism, or whether such questions

capture social (or status-quo) conservatism instead. To this end, we use cross-national survey data (the 1995-98 wave of the World Values Survey[1]), which includes both questions about homosexuality, abortion, prostitution and divorce, and the 'least-liked group' battery of questions. The analysis confirms the existence of two dimensions at both the global level and the level of individual countries, and Romania is no exception.

Data, methods and data analysis

The two sets of questions were asked in the 1995-98 wave of the World Values Survey in 42 countries, including Romania, covering a wide range of continents, cultures, democratic traditions, and levels of social and economic development[2]. This enables us to place political tolerance and social conservatism in Romania in a comparative perspective. Our analysis has some similarities with Stenner's, but there are important differences as well. First off, rather than assuming a priory that intolerance (or authoritarianism) and social (or status-quo) conservatism are empirically distinct dimensions, as both Stenner and Grunberg and Schweisguth do, we use factor analysis of the data to test whether that is indeed the case. Second, unlike Stenner, we include both types of questions discussed in the beginning, i.e., Sullivan et al.'s questions and Fish and Inglehart's questions. We argue that the 'least-liked group' questions (which were only asked in the 1995-98 wave of the World Values Survey) are better and more straightforward measures of political intolerance or authoritarianism compared to the questions used by Stenner (the questions about 'national pride' or 'fighting crime v. strive for a more humane society').

Table 1, in which we see the correlations between all the respondents' answers to seven questions (three questions relating to tolerance toward the least-liked group[3] and four questions relating to tolerance toward non-

[1] For a description of the World Values Survey project see Appendix A.

[2] The full set of questions were asked in Argentina (survey conducted in 1995), Armenia (1997), Australia (1995), Azerbaijan (1997), Belarus (1996), Bosnia and Herzegovina (1998), Brazil (1997), Bulgaria (1997), Chile (1996), Colombia (1998), Croatia (1996], the Czech Republic (1998), the Dominican Republic (1996), Estonia (1996), Finland (1996), Georgia (1996), Germany (1997), Hungary (1998), India (1995), Latvia (1996), Lithuania (1997), Republic of Macedonia (1998), Mexico (1996), Republic of Moldova (1996), New Zealand (1998), Nigeria (1995), Peru (1996), Philippines (1996), Poland (1997), Puerto Rico (1995), Romania (1998), Russian Federation (1995), Serbia and Montenegro (1996), Slovakia (1998), Slovenia (1995), South Africa (1996), Spain (1995), Sweden (1996), Switzerland (1996), Ukraine (1996), United States (1995), Uruguay (1996), and Venezuela (1996).

[3] The answers to the first three questions were dichotomies, 'yes' or 'no.' We recoded 'no' answers as 0's, 'yes' answers as 2's, and 'don't knows/no answers' as 1's.

conventional social behavior[4]), offers a first indication that we have two dimensions rather than just one[5]. The intra-group correlations between the two groups of questions (in bold) are significantly higher than the inter-group correlations. The lowest intra-group correlation, 0.38, is more than twice larger than the highest inter-group correlation, 0.15.

Table 1.

Correlation matrix of the seven variables distinguishing social conservatism from authoritarianism/political intolerance in 42 countries (World average, World Values Survey 1995-98 dataset)

Variable 1: Allow the least-liked group to hold public office
Variable 2: Allow the least-liked group to teach in public schools
Variable 3: Allow the least-liked group to hold rallies
Variable 4: Homosexuality is justified
Variable 5: Prostitution is justified
Variable 6: Abortion is justified
Variable 7: Divorce is justified

	[1]	[2]	[3]	[4]	[5]	[6]
[2]	**0.57****					
[3]	**0.50****	**0.44****				
[4]	0.06**	0.04**	0.15**			
[5]	0.05**	0.04**	0.13**	**0.61****		
[6]	0.00	0.01*	0.08**	**0.38****	**0.43****	
[7]	0.00	0.00	0.09**	**0.42****	**0.42****	**0.58****

*Statistically significant at the 0.05 level (two-tailed test)
**Statistically significant at the 0.01 level (two-tailed test)
N = 62,180

In Table 2 we present the bivariate correlations between the seven variables for the Romanian respondents. It is immediately apparent that the results for Romania are very similar to the world results. On the one hand, we see high intra-group correlations; then on the other hand, we see low inter-group correlations.

[4] The answers to the last four questions were on a 1-10 scale, where 1 was for 'never justified' and 10 for 'always justified.' We kept the initial coding for all respondents who did offer an answer, and we recoded 'don't knows/no answers' as 5.5s (the midpoint between 1 and 10).

[5] Our analysis in this section is loosely based on Lijphart's (1999: Ch. 14) development of a two-dimensional conceptual map of democracy.

Table 2.

Correlation matrix of the seven variables distinguishing social conservatism from authoritarianism/political intolerance in Romania (World Values Survey, 1998 data)

Variable 1: Allow the least-liked group to hold public office
Variable 2: Allow the least-liked group to teach in public schools
Variable 3: Allow the least-liked group to hold rallies
Variable 4: Homosexuality is justified
Variable 5: Prostitution is justified
Variable 6: Abortion is justified
Variable 7: Divorce is justified

	[1]	[2]	[3]	[4]	[5]	[6]
[2]	**0.81****					
[3]	**0.64****	**0.62****				
[4]	–0.03	–0.04	0.04			
[5]	0.02	–0.04	0.06*	**0.64****		
[6]	–0.04	–0.02	0.04	**0.25****	**0.38****	
[7]	–0.04	–0.05	0.04	**0.32****	**0.38****	**0.63****

*Statistically significant at the 0.05 level (two-tailed test)
**Statistically significant at the 0.01 level (two-tailed test)
N = 1,239

The correlations in Tables 1 and 2 are informative; nonetheless, we have an even better and more concise summary of the relationships between many variables at our disposal. Factor analysis helps us to discover whether we have just one or multiple underlying dimensions among these variables. We can look at the resulting factor(s) as 'averages' of closely related variables (Lijphart 1999, 245). The following tables present the results of the factor analysis of the seven variables, for the 'world sample' (42 countries, Table 3), and for Romania (Table 4).

As we can see in both Table 3 and Table 4, one group of variables has high loadings on the first factor and much lower loadings on the second dimension, while for the other group of variables, the opposite is true. This is further evidence that the questions about the least-liked group and the questions about tolerance toward unconventional social behavior measure different things. The results are clear-cut at the global level, and they are even more so in Romania's case.

Table 3.

Factor matrix* of seven variables discriminating social liberalism from political tolerance ("world" sample) (1995-98 World Values Survey data)

Question	First factor (2.5)	Second factor (1.94)
LLG to hold public office	0.305	0.795
LLG to teach in public schools	0.286	0.772
LLG to demonstrate	0.409	0.671
Homosexuality is justifiable	0.752	–0.195
Prostitution is justifiable	0.761	–0.222
Abortion is justifiable	0.705	–0.296
Divorce is justifiable	0.717	–0.297

*The factor analysis is a principal component analysis with eigenvalues over 1.0 extracted (the eigenvalue for each factor shown in parenthesis)

Table 4.

Factor matrix* of seven variables discriminating social liberalism from political tolerance in Romania (World Values Survey, 1998 data)

Question	First factor (2.39)	Second factor (2.3)
LLG to hold public office	0.890	0.235
LLG to teach in public schools	0.891	0.216
LLG to demonstrate	0.776	0.319
Homosexuality is justifiable	–0.213	0.689
Prostitution is justifiable	–0.215	0.764
Abortion is justifiable	–0.226	0.710
Divorce is justifiable	–0.245	0.729

*The factor analysis is a principal component analysis with eigenvalues over 1.0 extracted (the eigenvalue for each factor shown in parenthesis)

Typically, scholars who use factor analysis employ a technique called rotation. The goal of rotation is to select a solution that is more easily interpretable (Porter and Fabrigar 2007, 343). The most common rotation option is Varimax rotation. When using this option, the solution "yields results which make it as easy as possible to identify each variable with a single factor" (Garson 2009). This is also our approach here. The rotated solutions for the entire ("world") and the Romanian samples are presented in Tables 5 and 6, respectively.

Table 5.

Varimax orthogonal rotated factor matrix* of seven variables discriminating social liberalism from political tolerance ("world" sample)
(1995-98 World Values Survey data)

Question	First factor (2.5)	Second factor (1.94)
LLG to hold public office	–0.009	**0.851**
LLG to teach in public schools	–0.018	**0.823**
LLG to demonstrate	0.134	**0.775**
Homosexuality is justifiable	**0.771**	0.094
Prostitution is justifiable	**0.789**	0.073
Abortion is justifiable	**0.764**	–0.016
Divorce is justifiable	**0.775**	–0.012

*The factor analysis is a principal components analysis with eigenvalues over 1.0 extracted (the eigenvalue for each factor shown in parenthesis). Loadings above 0.2 in bold.

Table 6.

Varimax orthogonal rotated factor matrix* of seven variables discriminating social liberalism from political tolerance in Romania
(World Values Survey, 1998 data)

Question	First factor (2.39)	Second factor (2.3)
LLG to hold public office	**0.920**	–0.037
LLG to teach in public schools	**0.915**	–0.055
LLG to demonstrate	**0.836**	0.077
Homosexuality is justifiable	–0.001	**0.721**
Prostitution is justifiable	0.019	**0.794**
Abortion is justifiable	–0.007	**0.745**
Divorce is justifiable	–0.020	**0.769**

*The factor analysis is a principal components analysis with eigenvalues over 1.0 extracted (the eigenvalue for each factor shown in parenthesis). Loadings above 0.2 in bold.

After the rotation, we see an even clearer image of two distinct dimensions emerging, in both cross-national (Table 5) and the Romanian case (Table 6). We argue that only the second factor (or, in Romania's case, the first) truly measures political tolerance, whereas the other factor measures social liberalism. The ranking of the factors is given by the

number in parenthesis (the eigenvalue), a measure of the relative importance of the factor – the so-called "Kaiser criterion" (Rust and Golombok 1999, 122). Even though the 'world' ranking is reversed in Romania, the two factors have relatively high (and fairly close) values in both cases (the critical value for a factor's eigenvalue is considered to be 1.0; any factor having an eigenvalue below 1.0 is not considered in the analysis).

The last step in our analysis was to save the rotated solutions of the cross-national analysis as new variables. Then it is possible to compute average scores for political tolerance and social liberalism for each country (the mean score of all the respondents from that country) – Figure 1. Taking into account the initial coding of the variables, the substantive interpretation of each country's position on the graph is that, the higher the score on the vertical dimension, the more tolerant the nation (and, similarly, the higher the score on the horizontal dimension, the more socially liberal the country).

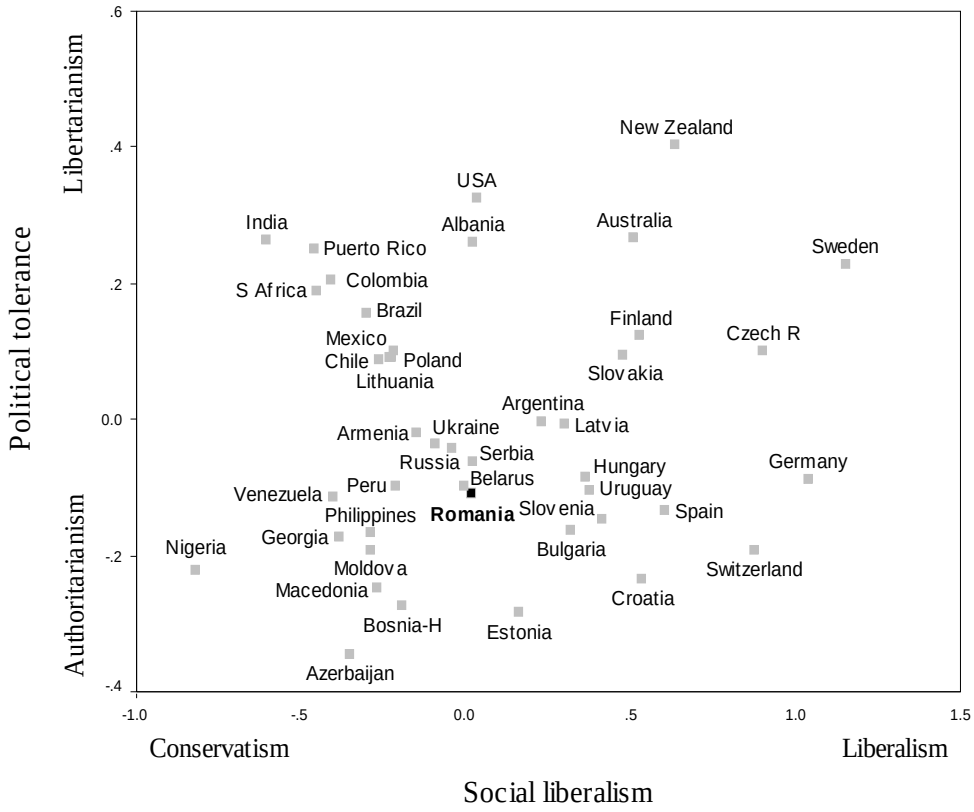

Figure 1. Political tolerance and social liberalism in Romania in cross-national perspective (1995-98 World Values Survey data)

We can develop a typology of countries, based on their placement in Figure 1. The citizens of countries such as New Zealand or Sweden are very tolerant with respect to both political and social issues. Then we have countries like Nigeria and Azerbaijan, whose citizens are a mirror image of the Swedes or New Zealanders, very intolerant on political issues and very conservative on social issues. The Germans and the Swiss, while very lenient vis-à-vis unconventional social behavior (Switzerland is one of the handful of countries to legalize euthanasia), are intolerant when it comes to accepting the manifestation of the groups they dislike in the public space. Finally, the fourth 'ideal-type' category is represented by countries such as India, whose citizens are, on the one hand, very conservative on social issues, while on the other hand being quite tolerant on political issues. Romania's score on the first dimension, 0.02, is very close to the 'world average' on social issues (by their very construction, each factor in factor analysis has a mean of zero and a standard deviation of one), and is slightly below (–0.11) the 'world average' on political tolerance.

Discussion

In spite of a consensus with respect to the fundamental role of political tolerance for democracy, scholars have yet to agree on how to operationalize and measure it. Some scholars see the extension of political rights and freedoms to the group the respondent dislike the most as a syndrome of political tolerance, while others argue that acceptance of unconventional social behavior (e.g., homosexuality) is a better measure of political tolerance. Theoretically, it is possible that both groups of scholars are right. If that is the case, it should make little difference whether we use one measure or the other, since the two should be highly correlated. Our main goal in this short research note was to test whether this is indeed the case. Using survey data from the 1995-98 wave of the World Values Survey, we used factor analysis of two groups of questions asked in that wave in 42 countries, including Romania.

The result of our analysis was to uncover two factors rather than one. That being the case, we argue that the first group of questions is a better measure for political tolerance, while the second group of questions measures social liberalism, rather than political tolerance. We argue that it is possible to be socially conservative, and thus see homosexuality as unacceptable, without necessarily wanting to translate this into policy or legal discrimination against homosexuals, which would be an indicator of intolerance. At the same time, willingness to limit the political rights of any

group is a much clearer indicator of intolerance, irrespective of the respondent's views about homosexuality. The results discussed in this brief presentation have indicated that the same two-dimensional structure of the ideological space uncovered at the global level is visible in Romania. As the results of factor analyses for the remaining 41 countries indicate, we see the same two-dimensional ideological configuration in every country analyzed (see Appendix B).

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Appendix A. The World Values Survey (brief presentation)

"The World Values Survey is a worldwide investigation of sociocultural and political change. It is conducted by a network of social scientist at leading universities all around world. Interviews have been carried out with nationally representative samples of the publics of more than 80 societies on all six inhabited continents. [The] project is being carried out by an international network of social scientists, with local funding for each survey (though in some cases, it has been possible to raise supplementary funds from outside sources). In exchange for providing the data from interviews with a representative national sample of at least 1,000 people in their own society, each participating group gets immediate access to the data from all of the other participating societies."
(Introduction to the World Values Survey, <http://margaux.grandvinum.se/SebTest/wvs/articles/folder_published/article_base_46>; Accessed July 23, 2009).

Appendix B. Varimax orthogonal rotated factor matrix of seven variables discriminating social liberalism from political tolerance, world countries

Table B1. Argentina

Question	First factor (2.38)	Second factor (1.85)
LLG to hold public office	–0.018	**0.837**
LLG to teach in public schools	–0.033	**0.820**
LLG to demonstrate	0.123	**0.694**
Homosexuality is justifiable	**0.764**	0.151
Prostitution is justifiable	**0.769**	0.065
Abortion is justifiable	**0.765**	–0.055
Divorce is justifiable	**0.747**	–0.041

Table B2. Armenia

Question	1st factor (2.17)	2nd factor (1.95)	3rd factor (1.03)
LLG - public office	**0.842**	0.001	–0.039
LLG - teach	**0.870**	0.005	0.014
LLG - demonstrate	**0.804**	0.073	0.021
Homosexuality	0.050	**0.862**	0.114
Prostitution	0.015	**0.847**	0.161
Abortion	–0.005	0.081	**0.877**
Divorce	0.002	**0.202**	**0.835**

Table B3. Australia

Question	First factor (2.83)	Second factor (1.67)
LLG to hold public office	0.056	**0.844**
LLG to teach in public schools	–0.022	**0.795**
LLG to demonstrate	**0.228**	**0.704**
Homosexuality is justifiable	**0.766**	0.148
Prostitution is justifiable	**0.804**	0.127
Abortion is justifiable	**0.828**	0.022
Divorce is justifiable	**0.794**	0.033

Table B4. Azerbaijan

Question	First factor (2.44)	Second factor (1.91)
LLG to hold public office	**0.924**	0.046
LLG to teach in public schools	**0.927**	0.073
LLG to demonstrate	**0.751**	0.030
Homosexuality is justifiable	0.063	**0.651**
Prostitution is justifiable	0.035	**0.735**
Abortion is justifiable	0.039	**0.723**
Divorce is justifiable	0.020	**0.756**

Table B5. Belarus

Question	1st factor (2.22)	2nd factor (1.76)	3rd factor (1.02)
LLG - public office	**0.869**	–0.004	–0.024
LLG - teach	**0.889**	0.036	–0.014
LLG - demonstrate	**0.754**	–0.009	0.183
Homosexuality	0.017	–0.001	**0.879**
Prostitution	0.101	**0.299**	**0.763**
Abortion	0.017	**0.830**	0.100
Divorce	–0.009	**0.824**	0.120

Table B6. Bosnia-Herzegovina

Question	First factor (2.36)	Second factor (1.88)
LLG to hold public office	0.003	**0.823**
LLG to teach in public schools	–0.037	**0.819**
LLG to demonstrate	0.037	**0.722**
Homosexuality is justifiable	**0.773**	0.043
Prostitution is justifiable	**0.769**	0.070
Abortion is justifiable	**0.812**	–0.059
Divorce is justifiable	**0.717**	–0.044

Table B7. Brazil

Question	First factor (2.28)	Second factor (1.78)
LLG to hold public office	0.003	**0.823**
LLG to teach in public schools	–0.037	**0.819**
LLG to demonstrate	0.037	**0.722**
Homosexuality is justifiable	**0.773**	0.043
Prostitution is justifiable	**0.769**	0.070
Abortion is justifiable	**0.812**	–0.059
Divorce is justifiable	**0.717**	–0.043

Table B8. Bulgaria

Question	First factor (2.34)	Second factor (2.21)
LLG to hold public office	–0.004	**0.878**
LLG to teach in public schools	–0.032	**0.897**
LLG to demonstrate	0.014	**0.803**
Homosexuality is justifiable	**0.749**	0.023
Prostitution is justifiable	**0.720**	–0.006
Abortion is justifiable	**0.782**	–0.013
Divorce is justifiable	**0.799**	–0.026

Table B9. Chile

Question	First factor (2.57)	Second factor (1.96)
LLG to hold public office	–0.017	**0.826**
LLG to teach in public schools	0.058	**0.806**
LLG to demonstrate	0.095	**0.869**
Homosexuality is justifiable	**0.793**	0.093

Prostitution is justifiable	**0.831**	0.086
Abortion is justifiable	**0.765**	–0.005
Divorce is justifiable	**0.717**	0.003

Table B10. Colombia

Question	First factor (2.4)	Second factor (1.82)
LLG to hold public office	**0.868**	0.018
LLG to teach in public schools	**0.875**	0.005
LLG to demonstrate	**0.897**	0.034
Homosexuality is justifiable	0.038	**0.802**
Prostitution is justifiable	0.004	**0.824**
Abortion is justifiable	0.010	**0.729**
Divorce is justifiable	0.011	**0.628**

Table B11. Croatia

Question	First factor (2.63)	Second factor (1.65)
LLG to hold public office	–0.053	**0.794**
LLG to teach in public schools	–0.065	**0.807**
LLG to demonstrate	0.188	**0.608**
Homosexuality is justifiable	**0.792**	0.063
Prostitution is justifiable	**0.789**	0.075
Abortion is justifiable	**0.829**	–0.018
Divorce is justifiable	**0.797**	–0.013

Table B12. Czech Republic

Question	First factor (2.26)	Second factor (2.03)
LLG to hold public office	0.008	**0.874**
LLG to teach in public schools	–0.020	**0.845**
LLG to demonstrate	0.080	**0.748**
Homosexuality is justifiable	**0.688**	0.006
Prostitution is justifiable	**0.608**	0.133
Abortion is justifiable	**0.831**	–0.039
Divorce is justifiable	**0.824**	–0.027

Table B13. Estonia

Question	1st factor (2.11)	2nd factor (1.91)	3rd factor (1.05)
LLG - public office	**0.868**	0.012	0.037
LLG - teach	**0.852**	–0.029	0.021
LLG - demonstrate	**0.701**	–0.013	0.056
Homosexuality	0.032	0.076	**0.885**
Prostitution	0.070	**0.205**	**0.843**
Abortion	–0.033	**0.868**	0.142
Divorce	0.003	**0.871**	0.128

Table B14. Finland

Question	First factor (2.61)	Second factor (1.8)
LLG to hold public office	–0.021	**0.863**
LLG to teach in public schools	–0.028	**0.832**
LLG to demonstrate	**0.212**	**0.666**
Homosexuality is justifiable	**0.760**	0.088
Prostitution is justifiable	**0.754**	0.006
Abortion is justifiable	**0.829**	0.069
Divorce is justifiable	**0.792**	0.043

Table B15. Georgia

Question	1st factor (2.3)	2nd factor (1.68)	3rd factor (1.11)
LLG - public office	**0.859**	–0.004	–0.001
LLG - teach	**0.834**	0.020	0.046
LLG - demonstrate	**0.793**	0.130	0.035
Homosexuality	0.080	**0.887**	0.098
Prostitution	0.036	**0.876**	0.152
Abortion	0.020	0.057	**0.878**
Divorce	0.043	0.193	**0.835**

Table B16. Germany

Question	First factor (2.75)	Second factor (1.77)
LLG to hold public office	–0.028	**0.833**
LLG to teach in public schools	–0.056	**0.809**
LLG to demonstrate	0.147	**0.656**
Homosexuality is justifiable	**0.839**	0.035
Prostitution is justifiable	**0.828**	0.023
Abortion is justifiable	**0.778**	0.033
Divorce is justifiable	**0.843**	0.014

Table B17. Hungary

Question	First factor (2.29)	Second factor (2.04)
LLG to hold public office	–0.057	**0.867**
LLG to teach in public schools	–0.033	**0.858**
LLG to demonstrate	0.096	**0.726**
Homosexuality is justifiable	**0.723**	0.089
Prostitution is justifiable	**0.757**	0.063
Abortion is justifiable	**0.753**	–0.065
Divorce is justifiable	**0.779**	–0.067

Table B18. India

Question	First factor (2.55)	Second factor (1.86)
LLG to hold public office	0.069	**0.869**
LLG to teach in public schools	0.050	**0.802**
LLG to demonstrate	0.068	**0.826**
Homosexuality is justifiable	**0.681**	0.157
Prostitution is justifiable	**0.817**	0.080
Abortion is justifiable	**0.827**	0.013
Divorce is justifiable	**0.676**	–0.011

Table B19. Latvia

Question	First factor (2.22)	Second factor (1.66)
LLG to hold public office	–0.036	**0.845**
LLG to teach in public schools	–0.028	**0.801**
LLG to demonstrate	0.130	**0.566**
Homosexuality is justifiable	**0.752**	0.019
Prostitution is justifiable	**0.748**	0.086
Abortion is justifiable	**0.723**	–0.019
Divorce is justifiable	**0.725**	0.040

Table B20. Lithuania

Question	First factor (2.27)	Second factor (2.04)
LLG to hold public office	–0.019	**0.844**
LLG to teach in public schools	–0.017	**0.823**
LLG to demonstrate	0.078	**0.810**
Homosexuality is justifiable	**0.712**	0.094
Prostitution is justifiable	**0.786**	0.047
Abortion is justifiable	**0.741**	–0.010
Divorce is justifiable	**0.751**	–0.082

Table B21. Republic of Macedonia

Question	1st factor (2.47)	2nd factor (2.1)	3rd factor (1.09)
LLG - public office	**0.897**	–0.009	0.044
LLG - teach	**0.877**	–0.024	0.002
LLG - demonstrate	**0.813**	0.018	0.132
Homosexuality	0.116	**0.216**	**0.859**
Prostitution	0.034	0.099	**0.907**
Abortion	–0.023	**0.936**	0.106
Divorce	0.006	**0.912**	**0.212**

Table B22. Mexico

Question	First factor (2.47)	Second factor (1.94)
LLG to hold public office	–0.022	**0.792**
LLG to teach in public schools	0.023	**0.731**
LLG to demonstrate	–0.004	**0.870**
Homosexuality is justifiable	**0.760**	0.083
Prostitution is justifiable	**0.850**	0.042
Abortion is justifiable	**0.814**	–0.003
Divorce is justifiable	**0.710**	–0.119

Table B23. Republic of Moldova

Question	First factor (2.38)	Second factor (1.92)
LLG to hold public office	–0.030	**0.817**
LLG to teach in public schools	0.002	**0.797**
LLG to demonstrate	0.051	**0.777**
Homosexuality is justifiable	**0.779**	0.072
Prostitution is justifiable	**0.828**	0.079
Abortion is justifiable	**0.763**	–0.077
Divorce is justifiable	**0.704**	–0.032

Table B24. New Zealand

Question	First factor (2.7)	Second factor (1.91)
LLG to hold public office	0.025	**0.888**
LLG to teach in public schools	–0.024	**0.849**
LLG to demonstrate	0.185	**0.722**
Homosexuality is justifiable	**0.746**	0.181
Prostitution is justifiable	**0.777**	0.139
Abortion is justifiable	**0.829**	–0.014
Divorce is justifiable	**0.799**	–0.051

Table B25. Nigeria

Question	First factor (2.51)	Second factor (2.04)
LLG to hold public office	0.017	**0.883**
LLG to teach in public schools	0.027	**0.846**
LLG to demonstrate	0.041	**0.759**
Homosexuality is justifiable	**0.672**	0.106
Prostitution is justifiable	**0.857**	0.014
Abortion is justifiable	**0.844**	–0.013
Divorce is justifiable	**0.750**	–0.005

Table B26. Peru

Question	First factor (2.44)	Second factor (1.86)
LLG to hold public office	**0.849**	0.047
LLG to teach in public schools	**0.841**	0.079
LLG to demonstrate	**0.842**	0.038
Homosexuality is justifiable	0.028	**0.756**
Prostitution is justifiable	0.068	**0.826**
Abortion is justifiable	0.124	**0.676**
Divorce is justifiable	–0.019	**0.650**

Table B27. Philippines

Question	First factor (2.39)	Second factor (1.95)
LLG to hold public office	0.045	**0.811**
LLG to teach in public schools	0.023	**0.824**
LLG to demonstrate	–0.012	**0.790**
Homosexuality is justifiable	**0.688**	0.058
Prostitution is justifiable	**0.811**	0.003
Abortion is justifiable	**0.809**	–0.034
Divorce is justifiable	**0.763**	0.036

Table B28. Poland

Question	First factor (2.43)	Second factor (1.7)
LLG to hold public office	–0.041	**0.818**
LLG to teach in public schools	–0.007	**0.795**
LLG to demonstrate	0.187	**0.661**
Homosexuality is justifiable	**0.727**	0.146
Prostitution is justifiable	**0.743**	0.114
Abortion is justifiable	**0.771**	–0.070
Divorce is justifiable	**0.797**	–0.002

Table B29. Puerto Rico

Question	First factor (2.35)	Second factor (1.85)
LLG to hold public office	–0.051	**0.811**
LLG to teach in public schools	0.011	**0.824**
LLG to demonstrate	0.133	**0.740**
Homosexuality is justifiable	**0.807**	0.002
Prostitution is justifiable	**0.828**	0.010
Abortion is justifiable	**0.702**	0.103
Divorce is justifiable	**0.669**	0.002

Table B30. Russia

Question	1st factor (2.13)	2nd factor (1.8)	3rd factor (1.08)
LLG - public office	**0.823**	0.009	0.026
LLG - teach	**0.829**	–0.042	0.012
LLG - demonstrate	**0.761**	0.034	0.101
Homosexuality	0.027	0.057	**0.881**
Prostitution	0.093	0.190	**0.838**
Abortion	–0.009	**0.874**	0.072
Divorce	0.009	**0.851**	0.167

Table B31. Serbia & Montenegro

Question	First factor (2.32)	Second factor (1.82)
LLG to hold public office	–0.057	0.852
LLG to teach in public schools	0.022	0.862
LLG to demonstrate	0.164	0.672
Homosexuality is justifiable	0.747	0.104
Prostitution is justifiable	0.730	0.095
Abortion is justifiable	0.738	–0.015
Divorce is justifiable	0.726	–0.005

Table B32. Slovakia

Question	First factor (2.35)	Second factor (1.85)
LLG to hold public office	–0.019	**0.855**
LLG to teach in public schools	0.005	**0.803**
LLG to demonstrate	0.083	**0.749**
Homosexuality is justifiable	**0.672**	0.017
Prostitution is justifiable	**0.747**	0.070
Abortion is justifiable	**0.809**	0.011
Divorce is justifiable	**0.835**	–0.007

Table B33. Slovenia

Question	First factor (2.65)	Second factor (1.74)
LLG to hold public office	–0.063	**0.809**
LLG to teach in public schools	–0.006	**0.812**
LLG to demonstrate	0.168	**0.656**
Homosexuality is justifiable	**0.778**	0.092
Prostitution is justifiable	**0.787**	0.103
Abortion is justifiable	**0.826**	–0.005
Divorce is justifiable	**0.822**	–0.043

Table B34. South Africa

Question	First factor (2.66)	Second factor (2.18)
LLG to hold public office	**0.919**	0.023
LLG to teach in public schools	**0.911**	–0.001
LLG to demonstrate	**0.885**	0.103
Homosexuality is justifiable	0.091	**0.733**
Prostitution is justifiable	0.088	**0.809**
Abortion is justifiable	0.035	**0.794**
Divorce is justifiable	–0.064	**0.721**

Table B35. Spain

Question	First factor (2.77)	Second factor (1.79)
LLG to hold public office	0.009	**0.805**
LLG to teach in public schools	–0.020	**0.788**
LLG to demonstrate	0.136	**0.758**
Homosexuality is justifiable	**0.832**	0.020
Prostitution is justifiable	**0.805**	0.059
Abortion is justifiable	**0.820**	0.053
Divorce is justifiable	**0.823**	0.033

Table B36. Sweden

Question	First factor (2.21)	Second factor (1.57)
LLG to hold public office	0.071	**0.807**
LLG to teach in public schools	–0.040	**0.799**
LLG to demonstrate	0.171	**0.666**
Homosexuality is justifiable	**0.665**	0.105
Prostitution is justifiable	**0.476**	0.060
Abortion is justifiable	**0.818**	0.039
Divorce is justifiable	**0.810**	0.021

Table B37. Switzerland

Question	First factor (2.58)	Second factor (2.0)
LLG to hold public office	0.019	**0.850**
LLG to teach in public schools	–0.090	**0.770**
LLG to demonstrate	0.094	**0.822**
Homosexuality is justifiable	**0.786**	–0.038
Prostitution is justifiable	**0.820**	–0.001
Abortion is justifiable	**0.776**	0.039
Divorce is justifiable	**0.814**	0.023

Table B38. Ukraine

Question	1st factor (2.38)	2nd factor (2.09)	3rd factor (1.02)
LLG - public office	**0.917**	–0.002	–0.028
LLG - teach	**0.921**	–0.011	–0.002
LLG - demonstrate	**0.796**	0.106	0.021
Homosexuality	0.020	**0.893**	0.106
Prostitution	0.059	**0.856**	**0.214**
Abortion	–0.001	0.156	**0.868**
Divorce	–0.007	0.150	**0.869**

Table B39. United States

Question	First factor (3.02)	Second factor (1.63)
LLG to hold public office	0.100	**0.880**
LLG to teach in public schools	0.088	**0.847**
LLG to demonstrate	0.188	**0.785**
Homosexuality is justifiable	**0.767**	**0.218**
Prostitution is justifiable	**0.714**	0.149
Abortion is justifiable	**0.823**	0.093
Divorce is justifiable	**0.793**	0.024

Table B40. Uruguay

Question	First factor (2.59)	Second factor (1.93)
LLG to hold public office	0.043	**0.868**
LLG to teach in public schools	–0.033	**0.836**
LLG to demonstrate	0.099	**0.732**
Homosexuality is justifiable	**0.807**	0.013
Prostitution is justifiable	**0.828**	0.021
Abortion is justifiable	**0.782**	0.077
Divorce is justifiable	**0.748**	0.034

Table B41. Venezuela

Question	First factor (2.59)	Second factor (1.93)
LLG to hold public office	**0.880**	0.021
LLG to teach in public schools	**0.898**	0.010
LLG to demonstrate	**0.860**	0.050
Homosexuality is justifiable	0.034	**0.740**
Prostitution is justifiable	–0.026	**0.848**
Abortion is justifiable	–0.011	**0.780**
Divorce is justifiable	0.066	**0.509**

Appendix C. Country means for the first and second dimension in Figure 1

Country	*Social liberalism*	*Political tolerance*
Albania	0.020	0.263
Azerbaijan	–0.353	–0.343
Argentina	0.227	–0.002
Australia	0.506	0.269
Armenia	–0.152	–0.020
Bosnia-H	–0.194	–0.272
Brazil	–0.304	0.157
Bulgaria	0.315	–0.161
Belarus	–0.002	–0.101
Chile	–0.265	0.088
Colombia	–0.414	0.204
Croatia	0.535	–0.234
Czech R	0.898	0.102
Estonia	0.160	–0.284
Finland	0.525	0.124
Georgia	–0.384	–0.173
Germany	1.038	–0.086
Hungary	0.359	–0.083
India	–0.607	0.265
Latvia	0.300	–0.007
Lithuania	–0.235	0.092
Republic of Macedonia	–0.272	–0.247
Mexico	–0.220	0.101
Republic of Moldova	–0.288	–0.190
New Zealand	0.636	0.404
Nigeria	–0.819	–0.220
Peru	–0.212	–0.096
Philippines	–0.291	–0.164
Poland	–0.229	0.092
Puerto Rico	–0.463	0.251
Romania	0.018	–0.111

Russia	–0.047	–0.042
Serbia & Montenegro	0.021	–0.059
Slovakia	0.476	0.094
Slovenia	0.412	–0.144
South Africa	–0.453	0.189
Spain	0.601	–0.133
Sweden	1.154	0.229
Switzerland	0.874	–0.193
Ukraine	–0.092	–0.036
USA	0.030	0.326
Uruguay	0.374	–0.105
Venezuela	–0.407	–0.115

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CIVIL SOCIETY, AUTHORITY AND THE LEGITIMATION OF POLITICAL RULE

DANIELA ANGI

ABSTRACT. This papers focuses on the theoretical relation between civil society, the type of political order in which this sphere is integrated and the question of political legitimacy. In spite of their diversity, all theories of civil society have a common aim: to assess and to explain the functioning of a given social and political order. Theories of legitimacy (or legitimation) explore the connections and the evolving interactions between rulers and ruled within a political setting. Both civil society and the process of political legitimation are conceptualised in close relation with the type of arrangements that characterise a particular society (such as political and societal pluralism, hierarchical relations and distribution of power). This brief theoretical review addresses several approaches on civil society and the ways in which this sphere is connected to the state and its authority, as well as the place of political legitimacy in various approaches of civil society.

Keywords: civil society, political legitimacy, democracy, state, authority, power

"There is no escape from power and coercion, no possibility of choosing, like the old anarchists, civil society alone…"
(Michael Walzer: *Civil Society Argument)*

"If a social order survives for sixty years, it is appropriate to raise the question of its legitimacy…"
Agnes Heller: *Dictatorship over Needs*)

The Theoretical Road of Civil Society

The ambiguities around the idea of civil society are related to the numerous metamorphoses experienced by this concept. Civil society is a term applied to various periods of time, each of them characterized by specific political and social circumstances. An immediate consequence of that is the richness of meanings that came to be associated with the idea of civil society. Ultimately, civil society became an umbrella-concept, not always sufficiently specific about the objects it stands for. During the processes of democratisation from the end of eighties and the early nineties, in Central Eastern Europe civil society became almost a synonym for democracy. On the other hand, the Western discourse is carried as a critique to the existing political order, aiming

to remodel the authority of the state by empowering different groups in society in terms of their influence on the decision-making processes. The Western debates point to the question of volunteering, active participation and civic engagement.[1] Most recent considerations are connected to issues of supra-national politics and the idea of civil society as an agency to sustain the global democratic governance, within a wider debate over the so-called "global" or "trans-national" civil society.[2] All these up to date theoretical directions, despite their different normative implications and practical applications reproduce in various degrees ideas that are deeply rooted in the past theorisations of civil society.

Many of the references to the early theories of civil society go back to the ideas advanced in the 17th century by John Locke. In accordance with his liberal theoretical orientation, Locke grounded the bases of civil society in the rights and in the privileges of individuals. Leaving the state of nature, individuals enter civil society, thereby legitimizing (through *tacit* consent) the political authority (government) that is supposed to guard their rights. In the approach proposed by Locke, a great emphasis was placed on the contractual character of the relation between civil society and the state, in which the latter has the responsibility to defend the interests and freedoms of the former. Still in the 17th and 18th century the thinkers of the Scottish Enlightenment advanced the idea of moral sentiments and looked for the grounds of civil society in the mutual recognition between its members. In their understanding, civil society also acquired a strong connotation of civility, referring to those "morally guided, rule – following relations that make possible anonymous social change." (Outhwaite and Ray, 2005) This optimist view of human benevolence was challenged by David Hume, for whom the individuals' self interests appeared as an obstacle in founding civil society on disinterested, altruistic individuals. (Seligman, 1998: 13-34) The idea of self-interest involved also the assumption of individuals' rationality, the theoretical elaboration of which we find in Kant's writings. Kant too related the individual emancipation to the abandonment of the state of nature:

> "Man must leave the state of nature, in which everyone follows the caprices of his own imagination and unite with all others… submitting himself to an external and publicly legal constraint…which is to say that everyone must above all enter into a civil state." (Kant quoted by Bobbio, 1989:35)

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[1] See Cohen and Arato: *Civil Society and Political Theory,* Cambridge, MIT Press, 1992;

[2] See for instance Anheier, H et al.: *Global Civil Society,* Oxford University Press, Oxford, 2001, Archibugi, D. and Held, D, Eds. *Cosmopolitan Democracy. An Agenda for a New World Order,* Polity Press, 1995.

Kant made another important contribution by delimiting between the public and the private spheres, alongside envisioning civil society as an arena for critique that stands as separate from the state (Seligman, 1998).

The separation between the civil and the political is also to be found in Alexis de Toqueville's contribution to the theorization of civil society, which brings to an end the "society-centered tradition" of conceptualization, in which "the emphasis was on the limits of the state and on the potential of society to govern itself." (Pérez-Díaz, 1993: 70) Toqueville inspired a whole new line of thought concerning civil society, through his emphasis on social self-organization, and importance of associational life: "a taste for liberty results from the practice of self-government." (Hall et al, 2005: 18)

The change of focus towards the authority of the state has been strongly marked by Hegel's ideas. According to Perez Diaz, "the state-centered intellectual tradition of civil society was based in very different analytical and normative assumptions, with the result that mixing the two traditions has created considerable confusion." (Pérez-Díaz, 1993: 70) Hegel emphasized the variety of interests encapsulated in civil society, and most importantly made a clear distinction between this sphere and the state. Equally important in this approach is that the fulfillment of the interests from civil society needs the intervention of the state. This happens because the state is the only authority capable to integrate the plurality of civil society into a single framework. However, in civil society individuals "learn the value of group action, social solidarity and the dependence of his welfare on others, which educate him for citizenship and prepare him for participation in the political arena of the state." (Kumar, quoting Pelczynski 1993: 379)

An interesting fact about the Hegelian perspective is the assumption of the normative superiority of the state command vis à vis the order of civil society. In the eventuality of a conflict between civil society and the state, civil society will have to conform to the precepts of the state. (Rau, 1991) This happens because: "in contrast with the spheres of private rights and private welfare – the family and civil society – the state is from one point of view an external necessity and their higher authority; its nature is such that their laws and interests are subordinate to it and dependent on it" (Seligman, 1998). There seems to be a definite resemblance between the state of affairs postulated by the Hegelian approach and the status of civil society in the Communist settings. In the latter case, the autonomy of civil society has been drastically diminished by the intervention of the state, which attempted to impose its own normative co-ordination over all social spheres. Moreover, in

the cases where the Communist rule had a prevailing totalitarian character, the dissolution of civil society became one of the priorities of the state policies.

The Hegelian perspective subsequently became the object of Marx's critique. Marx treated civil society and the bourgeois society as synonymous. Civil society, in this approach became a realm of conflicting interests generated by unbalanced access to property, and it stood for "the social organization evolving directly out of production and commerce." (as quoted by Kumar,1993: 377) As far as the state is concerned, in the Marxian approach it acts as a servant of the interests of the dominant groups in civil society. This further implies that from this position the state does not have enough power to control and command over the sphere of civil society.[3] At the same time, the contradictions and the conflicting dynamics of civil society do not find their answer in the universal realm of state, but rather in the annihilation of the distinction between state and civil society (Seligman, 1998:27). Marx's approach is thus relevant for an additional reason, connected to his influence on the ideology that guided (together with the Leninist flavor later added) the attitude of Communist leaders regarding the institutions of civil society.[4]

The views above outlined stand for what is called the classical tradition of civil society theorization. (Seligman, 1992) All of these theories have been advanced in the attempt to construct a coherent vision of the social and political order, and to assess the rapport between the state and its subjects. The influence of these ideas may be recognized in later theoretical developments, both in the liberal and in the socialist approaches (Seligman, 1998:27). An inherent limitation that was reproduced in the later perspectives is that these

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[3] Antonio Gramsci, important representative of Western Marxism, has also stressed the conflict driven character of civil society. The Gramscian approach brought in a new element: the idea of hegemony, closely related to the class domination, and the ideological manipulation of the subordinated classes. Concerning the similarities between the two approaches, Hann notes that "the Marxist strand was creatively reworked by Gramsci, who argued that the struggle to transcend the inequalities of class society can only proceed following careful analyses of culture and ideology among the masses of civil society [….] One (approach) emphasises the reality of class exploitation while the other privileges freely associating individuals. […] Both identify civil society with realms outside the power of the state, and emphasise economic life as such a realm" (Hann, 1996:5). To a great extent, the spectacular return of civil society in the academic interest, few decades ago, is due to Gramsci's controversial yet seminal work. See also Cohen and Arato (1992);

[4] Marx together with Engels argued in The German Ideology that "civil society is the true source and theatre of all history", which in other words points to the great importance that transformations within the sphere of civil society had in explaining social and political phenomena throughout history. See Krupper and Krupper ed (1996): Encyclopaedia *of Social Sciences*, London, Routledge. See also Ehrenberg, J: Communism and Civil Society, in Civil Society- the critical history of an idea, New York University Press, 1999.

theories tend to describe or to ascribe a prevailing type of political order: the Western liberal one. However, Seligman notes that despite the fact that "in liberalism, the idea of the morally (and economically) autonomous individual […] remained as the fundamental premise of political life", what has been left aside is "the notion of natural sympathy and moral sentiments." This in turn "made it increasingly difficult to root the individual in a community and to present a coherent vision of society beyond its individual members" (Seligman, 1998). At any rate, is reasonable to assume that the liberal approach tends nowadays to dominate the international discourse (and to an undecided extent, the practice) and that it is this model that many former Communist countries tried to adopt for sustaining their new democracies.[5]

Civil Society in the Theories of Democracy

I discuss briefly three of the theoretical models of democracy and to the place endorsed to civil society in these approaches. The *elite model* of democracy ascribes by definition a fairly undemanding role to citizens. As voters, citizens are left with the task of choosing among the available offers of political parties and leaders and further accepting the leadership. One of the critiques of elite democracy approach is that this model encourages *civic privatism,* apathy and, most importantly it suggests the closing of the political system from excess of demands from the population. In this model, democracy is merely defined by procedures that exclude free agreement and discursive will formation, and advance the regularly held elections as the main feature of democracy (Cohen and Arato, 1992). By contrast, the model of *participatory democracy* addresses the necessity for public spaces, where the active participation of citizens may take place. It also pleads for diminishing the gap between rulers and ruled (or the strengthening of the elite - masses linkage necessary in a representative democratic setting) (Cohen and Arato, 1992).

Thirdly, the theory of *discursive democracy* looks for the sources of autonomy in the institutions of civil society. In this approach, civil society is

[5] The 89 transformations in Central Eastern Europe and the corresponding events from ex - Soviet Union in 1991 encouraged a large body of research and literature on the post Communist developments of the civil society sphere, civic attitudes and political culture. Two contrasting trends may be observed in this sense: a pessimistic one, that advances the quasi-impossibility for CEE countries to arrive at a Western liberal - like model of civil society, due to institutional backwardness and lack of liberal political culture of the population; an optimistic stance that sees in the developments of post Communist civil societies a promising evolution towards the Western democracies models.

> "composed of those more or less spontaneously emergent associations, organizations, and movements that attune to how societal problems resonate in the private life spheres, distil and transmit such reactions in amplified form to the public sphere. The core of civil society comprises a network of associations that institutionalize problem-solving discourses on questions of general interest inside the framework of organized public spheres."
> (Habermas, 1996: 367)

Furthermore, the public sphere is the site where the ideas, values, interests and ideologies formed in the civil society are voiced and made politically efficacious. The virtues of public sphere reside in its capacities to identify and raise issues relevant for the groups in civil society, and to provide the opportunities for the evaluation of the policies and governmental performances.

A first observation is that even within the approaches that treat civil society in democratic settings, there are variations in the understanding of this sphere. A comprehensive portrayal of a democratic type of civil society is the one offered by Cohen and Arato, according to whom "civil society is the sphere of social interaction between economy and state, composed above all of the intimate sphere (especially the family), the sphere of associations (especially voluntary associations), social movements and forms of public communication" (Cohen and Arato, 1992: 97).

The main characteristics that civil society – understood as above - entails are: plurality (ensured by the autonomy and diversity of families, informal groups, and voluntary associations), publicity (made possible by the institutions of communication), privacy ("a domain of individual self-development and moral choice"), and legality ("guaranteed through structures of general laws and basic rights needed to demarcate plurality, privacy and publicity from at least the state and the economy") (Cohen and Arato as quoted by Habermas, 1996: 368).

The definition of civil society in democratic settings involves several additional aspects related to its functions, the relation with the wider political sphere and the rapport with the state. Looking at the existing approaches, one may distinguish between the democratic function[6], the ability of civil society to

[6] Probably the first scholar who addressed the importance of the democratic dimensions of civil society was Alexis de Tocqueville. He referred to the importance of networks of voluntary associations in supporting the culture of trust and cooperation, essential to the effective performance of democratic institutions. Other authors who developed on this idea are Gabriel A. Almond and Sidney Verba in their studies on the civic culture. The authors suggested that individuals who are members of organisations (political or not),

distribute power in a given society[7], the economic stimulation (Inglehart, 1997), and the articulation and promotion of interests of various groups. To a certain extent, all these functions may be labeled as democratic, yet in the literature one finds a tendency to particularly stress within the democratic function the role of civil society in creating and strengthening citizenship skills and its contribution to the defense and popularization of democratic values. Another aspect of this function is related to the *check and balance* processes, through which the government's measures are monitored, critically assessed and responded to. The separation of civil society from the state – though recognized by most of the contemporary theories – is nevertheless a matter of degree, depending upon the ideological position to which a given approach belongs.

In the democratic theory, civil and political societies are respectively two distinct entities. According to Diamond, political society in a democracy consists primarily of "political parties and campaign organizations whose primarily goal is to win control of the state or at least some position for themselves in it" (Diamond, 1997:15). One could react to such a definitive statement, by observing that not all political parties have as main goal the control of the state; however, the main point of such approach is that the incongruence between civil society and political society rests in their different teleological orientations. The other way around, one finds deviations from the mainstream idea of separation between civil society and political society; such positions assume political parties as belonging to civil society (the model of party-democracy seems to suggest such symbiosis) (Manin, 1997). In any case, institutions and organizations of civil society not only interact with political society, but also at times tend to be absorbed into it. Once engaged in political actions and procedures, civil society-rooted organizations move towards the political society, and the boundaries between the two spheres may become ambiguous.

The complementarities between civil and political society is further emphasized in relation with the processes of democratization and of democratic consolidation, when civil society acts as reservoir of political alternative, by providing ideological drives for transformation; further on, throughout the process of democratic consolidation, the renewal of political society is assisted by civil society, through training, initiatives and personnel (Linz and Stepan, 1996: 8-9).

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when compared with the non members, are likely to see themselves more competent as citizens and are likely to be more active in terms of political participation;

[7] Within the sphere of civil society various centres of influence may challenge the potential excesses of the state.

Civil Society and the Critical Theory of Society

To some extent, critical theory reacts against two of the weaknesses reproduced by the earlier theoretical approaches of civil society. On the one hand it counterbalances the utopian dimension of civil society, by attaching a low ideological luggage inherent in its essentially systemic-oriented approach. On the other hand, it reacts against the consecrated dualistic model state - *civil society* posited by a prevailing part of the political sociology (and political theory). Unlike the liberal approaches, critical theory delimits civil society not only from the state, but also from the economic sphere.[8] Furthermore, despite its inbuilt connections with Marxism, critical theory distanced from the economic interpretations and conceived of civil society as being a system of ideas, values and ideologies.

Currently, critical theory understands civil society as a sphere of identity formation, social integration, and cultural reproduction (Chambers, 1998: 90-91). Within this theoretical direction a frequently referred to approach is the one advanced by Jurgen Habermas. Habermas's theory, while rooted in the critical tradition of Frankfurt School, delimits to some extent from the mainstream and borrows also from Talcott Parsons's theory of action and from latter's systemic approach of social world.[9] In this way, Habermas develops his model of a social system (developed initially as a critical analysis of capitalist societies) by delimiting between system and lifeworld. The system in this perspective is divided (differentiated) in two subsystems: the administrative one (the state) and the economic one. The means through which they function are correspondingly the power and the money respectively (Chambers, 1998: 90-91). At the other pole of the social

[8] See more in Cohen and Arato, 1992.

[9] However, Habermas did not employ exhaustively the Parsonian model of society: in the latter's theory, culture, society and personality are respectively distinct systems. By contrast, "Habermas does not model culture and personality as systems, because in his view the development of culture and personality must be understood as a communicative process, rather than a functional one." (Braaten, J, (1991): Habermas's Critical Theory of Society, State University of New York Press, p. 85); There are other aspects in which the two approaches differ, out of which one could mention the objections Habermas raised against the Parsonian view on values. Parsons believed that individuals' values originate in the goals that are established and seek for by the social system. By contrary, Habermas argued that it is impossible to understand the origins of values and the existence of the normative forces (i.e. what motivates commitment to a norm) possessed by norms that preserve those values without recognising the existence of a sphere of society - the lifeworld – based on commitment to a means of justifying claims about interests and values. For more see Braaten, chapter 5, "The Critique of Societal Rationalisation";

system, differentiated by the two subsystems, yet interacting with them is the lifeworld. Lifeworld consists of culture, society and personality, as structural components. All these structural components contribute to the functioning and maintenance of lifeworld. The structural core of the lifeworld is in fact the societal community, already introduced as a concept by Parsons.[10] The processes that ensure its reproduction, and which correspond respectively to its components are cultural reproduction, social integration and socialisation. Unlike the two subsystems, lifeworld operates and is being maintained through communication, as main organizing principle.

Considered at times the equivalent of "societal community" from Parson's theory, in Habermas understanding, life world becomes the "background against which all social interaction takes place" a sphere that is based on meanings, and interpretations, circulated and transmitted further through communication (Chambers, 1998: 90-91). The differentiation of lifeworld takes place through the emergence of "institutions specialized in the reproduction of traditions, solidarities and identities" (Cohen and Arato, 1992: 429). These institutions represent, in this approach, the civil society. Both lifeworld and system entail a private and a public dimension. The category that corresponds to the public dimension of lifeworld, the public sphere is a communicative structure and an extension of civil society. Public sphere has a particular relevance for the interaction between lifeworld and system because it is the site where issues raised in civil society are identified, problematized and ultimately voiced (Habermas, 1996: 329-397). The theorization of public sphere is to be found in Habermas's theory of deliberative democracy, where a detailed account on the contributions of an articulated public sphere to a democratic environment is available.

	Public	**Private**
System	political subsystem (state)	economic subsystem
Lifeworld	public sphere	private sphere

Figure 1. Habermas's model of lifeworld and system, and their positioning in the public and private spaces (From: Cohen J. and Arato, A.: Civil Society and Political Theory, Cambridge, MIT Press, 1992, p. 431)

[10] See Parsons, T (1951): *The Social System*, Free Press; Parsons, T (1971): *The System of Modern Societies,* Prentice Hall.

The development and maintenance of lifeworld may occur in agreement or in conflict with the evolution of the system. In the first case, the system (particularly the state) provides the legal framework for the operation of lifeworld (hence for civil society), whereas lifeworld and civil society act as a supply of legitimacy for the state). A different type of interaction between the two categories of spheres refers to the infiltration of the system into lifeworld, to a sufficient extent as to alter the normal functioning of lifeworld. A high degree of system infiltration leads to what Habermas called colonization of lifeworld, which designates "the assimilation of lifeworld tasks by system", which results in "systematic distortions of communication as the fluid processes of cultural value formation are replaced by fix, non-communicative bureaucratic procedures." (Braaten, 1991:97)[11]

All together, the approach suggested by Habermas has several merits in terms of the innovative elements in the reflection on the civil society. One of these has been underlined by Cohen and Arato (Cohen and Arato, 1992). Accordingly, they consider Habermas's perspective as "the best available conceptual framework for reconstructing the three-part model of civil society" (Cohen and Arato, 1992: 427), meaning a model that goes beyond the dualistic view: state - civil society, thereby accommodating the economy as a relevant category. By reinterpreting the Parsonian scheme, Habermas slightly diminishes the appearance of automatic functioning machinery of the social system. Yet, there are internal problems also in Habermas's account. Perez-Diaz reproaches to Habermas the view according to which the state and the economy are "an integrated field or system, which would stand as opposed to civil society." (Perez-Diaz, 1995:99) This criticism is somewhat related to the weakness that Perez Diaz senses in Habermas' approach of systems as "integrated set of political and economic activities", thereby implying the existence of "a stable combination of economic and political institutions and organizations" (Perez-Diaz, 1995:103). The author argues that such stability is highly questionable. Concerning the understanding given by Habermas to the civil society, Perez-Diaz argues against the approach by which civil society - conceived of as solely a small

[11] Habermas identifies two directions in which the political subsystem may be threatened. On the one hand when its "regulatory competence" becomes ineffective; on the other hand, a crisis may emerge because "the political system fails as a guardian of social integration if its decisions, even though effective, can no longer be traced back to legitimate law" (Habermas, 1996: 385-386). The legitimation crisis thus installed is likely to be deepened due to the meeting of an "illegitimate power, together with the weakness of civil society and the public sphere […]" (Habermas, 1996: 386).

part of the lifeworld - is equaled with the public sphere, thereby reducing the coverage capacity of this concept.

Civil Society from the Perspective of Social Movements

Civil society is often discussed in relation with social movements, "a normal, albeit extra institutional, dimension of political action in modern civil societies."(Cohen and Arato, 1992: 565) The inclusion of social movements in the sphere of civil society is not wholly surprising; in fact the literature records a great deal of agreement on this issue. Holmes for example notes that "one of the clearest indications of emerging civil societies is the development of social movements" (Holmes, 1997: 270)

There are however, important schisms in the literature on social movements, which I do not examine in depth. For example, the distinction between old and new social movements (Holmes, 1997), and between competing paradigms of theorizing these phenomena, like the *resource mobilization*, *collective behavior, political process, identity oriented* paradigms. (Cohen and Arato, 1992; della Porta and Diani, 1999) Quite frequently, when civil society is discussed from the perspective of social movements, civil disobedience comes to fore. Cohen and Arato, who revitalized this understanding argued that

> "the peculiarity of collective action involving civil disobedience is that it moves between the boundaries of insurrection and institutionalized political activity […] By definition, civil disobedience is extra-institutional: A legal right to engage in civil disobedience is self contradictory. But it does not thereby violate the principles of civil society. Rather, direct political action in the form of civil disobedience keeps the utopian horizon of a democratic and just civil society alive […]" (Cohen and Arato, 1992:566).

In this regard, the proximity between the "civil disobedience" approach and the approach of civil society as opposition becomes apparent. Smolar made an insightful observation in this sense:

> "under authoritarian regimes, the opposition can count on the overthrow of the dictatorial power by a revolt, a peaceful movement of civil disobedience, or as a result of outside pressure. Within the opposition, even if it is being decimated by terror, ideas develop, and an alternative leadership forms, capable at any time of assuming responsibility for the country" (Smolar, 1991: 176)

Alternatively, we may think to integrate the approach of civil society understood as social movements in the wider civil society debate which splits this argument in two orientations: the so called *Civil Society I*, where an active civil society sustains democracy and "protects against state incursion, yet strengthens the liberal democratic state" (Outhwaite and Ray, 2005: 153, see also Foley and Edwards, 1996) and the *Civil Society II*, closer to the idea of opposition and "explicitly antithetical to the state" (Outhwaite and Ray, 2005: 159).

Civil Society Opposing the State: Meanings and Limits of Conceptual Interchangeability between Civil Society and Opposition

I discuss in the following the particular understanding of civil society in the context of authoritarian (and more specifically Communist) regimes – civil society as resistance to centralized political authority. In this understanding, "civil society became a central concept through which many participants in the anti communist revolutions theorized these diverse movements and offered outlines of the shape of post communist societies." (Outhwaite and Ray, 2005: 148) Scholarly literature commonly refers to this as *civil society as opposition*, a designation that instantly reveals the focus of this approach. Within such a perspective one looks for indications of organized disagreement to the regime. The meanings inculcated in the idea of opposition may cover the active resistance to the state, to the ideology, to concrete practices, etc.

However, the category of *opposition* seems at times insufficiently elaborated to be used as a theoretical backbone for research. In this regard, I argue that the concept of opposition can become a valuable tool once harmonized with a substantive characterization of civil society. In other words, I believe it is necessary to integrate the idea of opposition into a theoretically sustainable definition of civil society. Otherwise, within a *civil society as opposition* perspective, one would be tempted to boil down the entire argument to a "zero sum game" (Hann, 1995: 178), by thinking of civil society as diametrically opposed to the state. This "simplistic" view, in which what the state loses, is a gain for the civil society – and the reverse – has nevertheless been at the core of the *civil society against the state* views. Such ideas have been "widely disseminated among all sections of the population in the former socialist countries" (Hann, 1995).

From a similar position, Ely notes that "the original East European version of "*civil society*" was not theoretically sophisticated: it was merely an attempt to develop a moral position outside the communist system" (Ely,

1992: 12, italics in original). This is partly the reason why the *civil society against the state approach* cannot be considered a theory in the proper sense of the word. The ideas included in this approach, born within the intellectual circles of the 70s, argued that the reform of socialist systems is unlikely to occur within the state apparatus. The idea of a reform initiated from below had to have as agent the civil society. In this vision, civil society was thought of in a dual manner: on the one hand civil society had to be the source and the agent of change, while on the other hand the rebirth of a democratic civil society was an end in itself. This presupposed to recuperate the self-organizing capacities of society and to recreate a public sphere emptied of over-ideologization (Arato, 1993). Without a doubt, defining civil society against the state is solely an instance within the general conceptualization of this category. In this regard, Kaviraj has rightly observed that civil society "appears to be an idea strangely incapable of standing freely on its own", being contrasted to the state of nature, community etc. (Kaviraj, 2001: 288). In the case of Central Eastern Europe before 1989, civil society came to be defined in opposition to the communist authoritarian regimes. This in turn confirms Norberto Bobbio's insightful observation that "it is difficult to provide a positive definition of civil society." (N. Bobbio as quoted by Khilnani: 2001: p. 17)

I discuss in the following several ways in which opposition has been defined and characterized by various authors. In Rupnik's understanding, the opposition designates the "articulate expression of disagreement with official policies, by an organized body, whether permanent or not, whether legal or not" (Rupnik, 1979: 61). Rupnik does not make reference to any key group acting within opposition, offering a general definition to describe opposition in terms of "disagreement with the official policies." Rupnik was among the first authors to start interpreting, in late 1970s the development of clear signs of opposition as a "rebirth of civil society."[12] Although Rupnik referred specifically to the Polish situation (1968-1978), his contribution marked an important moment in the scholarly assessment of increasing social activism and criticism of the communist regime.

Discussing the alternative theoretical concepts to that of "opposition", Smolar argued that "the only serious rivals for the term *opposition* are *independent society* and *civil society*. They reflect the scale of the phenomenon but also its depth: in the final count a victory of the opposition would be a

[12] Rupnik, J. (1979): "Dissent in Poland 1968-1978: the end of Revisionism and the Rebirth of the Civil society", in Tokes, R (ed.), *Opposition in Eastern Europe,* The John Hopkins University Press.

victory for the civil society transforming itself into a political society" (Smolar, 1991: 176, italics added). Smolar seems thus to suggest a great closeness between the two concepts.

Likewise, the formulation "independent society" is rooted in the deliberation of dissent literature on the condition of civil society under Communism. In this regard, an influential contribution is attributed to the theorization of the second society advanced by Elemer Hankiss.[13] In this approach, the second society may be considered the theoretical and empirical equivalent of civil society; it consists of several sub-systems: the second economy, the second public, the second culture, the second consciousness, and the second sphere of social-political interactions. The functioning of the second society occurs at the same time with the existence of the official society, and the relation between them is essentially antagonistic. Hankiss envisioned in this way the independent society as a multi-dimensioned phenomenon; its generality is given by the existence of multiple "independent" realms, which further means that a variety of social actors are engaged in the creation and maintenance of the non-official society.

In contrast with this inclusive understanding of the autonomous sphere of civil society, Schopflin suggested that in the Communist regimes, opposition is fore and foremost "an intellectual movement" (Schopflin, 1983). While pointing to an important matter – the centrality of intellectuals as social / political activists of the opposition – this approach disregards another important group that proved to have an active role within the resistance to the regime, namely the workers. However, one cannot totally disagree with Schopflin's stress on the intellectuals' role within the opposition, especially when thinking of civil society as a political project. If one operates with this understanding of civil society, then the ideologies behind the project become central, and so do their creators, the intellectuals.

Several remarks can be made vis a vis the connection between the opposition and the civil society. The two concepts appear often as synonymous, when the reference is made to the state of civil society in the communist regimes. Conceptually, this seems only partially accurate, because the term *opposition* as such, apart from suggesting that it stands for a conflictual interaction between more parts does not go any deeper in specifying the actors, the mechanisms, or the finalities of this process. However, the proximity between opposition and civil society – for the case of the Communist realities – is wholly justifiable *a posteriori,* being validated by

[13] Hankiss, Elemer: *The Second Society,* in Feher and Arato ed. *Crisis and Reform in Eastern Europe,* London, Transaction Publishers, 1991, pp. 303-335.

the real experience of the societies. It was precisely this kind of empirical indication that nourished the idea of civil society as "an emerging sphere of autonomous associations, which required political and legal protection from the state, before which it also stood as a democratic challenge" (Ehrenberg, 1999: 197).

Civil society as opposition represents an exceptional way of theorizing this sphere: it comprises both normative elements and empirically grounded substance. This understanding of civil society may be identified within the wider approach of "civil society as a counterweight to the state." (Foley and Edwards, 1996:45) Foley and Edwards argue in this sense that

> "in contexts of democratic transition, in particular, where established political parties have been repressed, weakened, or used as tools by the authoritarian state, autonomy from traditional politics seems to be a prerequisite for oppositional advocacy. In such contexts, civil society is treated as an autonomous sphere of social power within which citizens can pressure authoritarians for change, protect themselves from tyranny, and democratize from below." (Foley and Edwards, 1996: 46)

Against this background, I suggest that the relation between civil society and opposition should not be assumed *a priori* as one of equivalence. Generally speaking, it seems that opposition should be treated as a subspecies of civil society, or alternatively as a feature of the former. In other words, opposition is a potentiality, that may or not come into being, or it may materialize to a lower or to a higher degree.

Civil Society and Political Authority

A first remark regarding the rapport between civil society and political authority concerns the dichotomous model state-civil society, widely used in the scholar approaches. This dualistic model has been severely criticized for its simplifying effects and accordingly an alternative frame has been suggested, which would redirect research towards a civil society - economy - state approach.[14] Despite the deficiencies of the model per se, the relevance of the rapport between civil society and the state cannot be simply dismissed. With regard to the current orientations, John Keane reacted against the voices that consider obsolete the importance of the relationship between the two entities, arguing for both the actuality and the usefulness of this examination (Keane,

[14] Cohen J. and Arato, A. (1992): *Civil Society and Political Theory*, Cambridge, MIT Press, p. 421-426. The authors argue that the state-society model is a direct heritage of the nineteenth century thought and that nowadays is still reproduced by part of the Marxist authors, neo-liberals and neo-conservatives.

1988). According to Keane, within an analytical approach, the state-civil society distinction can be used in order

> "to analyze the origins, development and transformation of particular institutions or whole social system. It selectively identifies key institutions and actors, examines their complex patterns of interaction and attempts to reach some conclusions concerning their origins, patterns of development and outcomes." (Keane, 1988: 14)

The same author refers to an additional approach, which he calls "the political calculation" one, in which the state-civil society distinction is developed from the perspective of the political gains of oppositional social movements or power groups against their potential opponents or, conversely, to the stabilization of political power against potential challenges from movements or power groups.

Lastly, the justification for keeping in the discussion the mentioned relationship comes from a normative perspective and it refers to the situation in which neither the universalization of the state power, nor that of the civil society is desirable for the contemporary circumstances. In this situation, the preservation of the institutional distinction between state and civil society would become "a sine qua non of democracy in complex societies." (Keane, 1988: 25)

Recalling the different understandings of civil society reviewed in the first part of this paper, I summarize below the rapport between civil society and the state. Though this synthesis might not exhaust all possible interactions, in my opinion it succeeds to grasp the prevailing directions of influence between the two spheres.

The differences of emphasis in the relations above outlined go along different normative positioning of civil society as an intermediate between individuals and political authority, perpetuated starting with the early theories. The Scottish Enlightenment conceived of civil society as sheer intermediary between state and private citizens. Hegel believed that civil society - essentially subsidiary of the state - mediates the particular interests of individuals, and accords them with the universal interest (see Seligman, 1998). According to both Hegel and Marx, "civil society lacks the ability to organize itself and to grow. Hence it must be helped by conscious, deliberate design, the main designer being the state (for Hegel), or a revolutionary group on control of the state (for Marx)" which is why "[…] both theorists shared a deep distrust of civil society, and they argued for the primacy of a strong state, albeit different versions, which has to be the bearer or an exalted moral project." (Pérez-Díaz, 1993: 70)

	STATE	CIVIL SOCIETY	RELATION BETWEEN STATE AND CIVIL SOCIETY
LIBERALISM	State serves the civil society; State maintains the internal social order and protects civil society from external threats	Characterized by freedom, social diversity and competition on the market => material inequalities; The general prosperity is assured through encouraging individual innovation. The final outcome: benefits for the whole society; Based on principles of meritocracy and equality of opportunity.	There is clear separation between state and civil society; The delimitation between state and civil society attributes to the latter the quality of a site where individuals may pursue their self-chosen interests; in this sphere individuals are free from governmental interference.
MARXISM	State is the servant of the dominant interests from the civil society (always interconnected with economic categories); State reflects the class divisions and must choose between promoting them or trying to reconcile them.	Dominated by inequalities derived from the access to property; It has an essentially conflictual character	Inequalities from civil society shape the imperatives of the state; Emphasis on the tensions between state and civil society; The Gramscian orientation of Marxism: state and civil society are sometimes opposed, other times, state is seen as different from civil society through its monopoly of physical force;
ELITE THEORY	The state is controlled by individuals who possess a disproportionate amount of resources necessary to the process of rule	Elite model of democracy: voters neither set the political agenda nor make political decisions; they neither generate issues nor choose policies. Rather leaders (political parties) agree-gate interests and decide which are to become politically salient	Both state and civil society are characterized by division of power between elites and masses. Emphasis on the sectional interest in determining the distribution of power in the state and civil society
PLURALISM	By stressing the spread of power in society, pluralism underestimates the ability of the state to assert autonomy from civil society	A highly articulated civil society with cross cutting cleavages, overlapping memberships and social mobility is the presupposition for a stable democratic polity	Civil society must be free from any excessive interference of the state, which should in its turn respond to the needs and demands originated in civil society.
CRITICAL THEORY	The state is comprised in the political component of the system (political subsystem) It operates through power and cannot be modified from within.	Civil society is rooted in the lifeworld, the structure opposed to the economic and the political subsystems. Civil society is the institutionalized expression of the lifeworld, and it is reduced to the public sphere.	Civil society is conceived of as relying on a defensive attitude towards the state. It is an immediate implication of the assumption that the system will colonize the lifeworld.

CENTRAL AND EASTERN EUROPEAN UNDERSTANDING	The state has the strongest formal authority and it can impose strict rules and constraints over the civil society. Due to the intense centralisation, the space left for civil society is very limited. Centralisation tends also to the eradication of pluralism in the social realm.	Civil Civil society is conceived of as a balancing force to the state, which mobilises in the effort to democratise the political system from below. It may be loosely institutionalised, more or less articulated, or operating in informal networks.	The state and the civil society engage in a conflictual relationship; the conflict is often value-driven and is rooted in the diverging visions that each of the parts holds on to. The development of civil society depends largely on the freedom allowed by the state, yet also on the unofficial resources, and informal networks.

Figure 2. Relation between state and civil society according to the *classical theories* of political sociology, the critical theory approach, as well as in the Eastern European understanding. For the synthesis included in this table I relied also on: Faulks, K: *Political Sociology. An Introduction,* New York University Press, 1999, Cohen and Arato (1992), Foley and Edwards (1996)

Later on, Gramsci enriched the classical approach of Marxism. In his view, the space between state and individuals is not occupied solely by civil society, but also by the political economy and the political society. Political society (parties and political organizations) is dominated by the state, whereas political economy shapes the decision making process in the state. Civil society is the only sphere that has both inputs to the state (through hegemony) and is influenced by the latter. For that reason, Gramsci's approach was an innovative one, by enriching the dominant dualistic model civil society- state with the separate sphere of economy (see also Cohen and Arato, 1992; Outhwaite and Ray, 2005) Pluralist approaches (going with slight variations in the Tocquevillian line) and to a great extent also the liberal ones stressed on the virtues of civic and political organizations not only for fostering citizenship, but also for supporting a fair bond between state and individuals (see also Foley and Edwards, 1996).

Within the critical theory, if one chooses the version offered by Habermas, the relation between the state and the civil society must be conceptualized in terms of systemic interactions between the political subsystem and the lifeworld. Along these lines, I have noted that there are at least two possible ways of interaction, a positive one, in which the state shelters the formal environment where the civil society operates, in the exchange of the latter's legitimation, and a negative one where the state intrudes into the realm of civil society, affecting its normal way of functioning.

Perhaps the most explicit suggestion of the conflicting rapport between the state and the civil society is comprised in the last of the approaches listed in the table: the Central Eastern European understanding of the civil society. This last approach entails the "idea of a fundamental antipathy between state and civil society, in which the former had to be restrained by the civil institutions of the latter, on which the anti communist theorists drew." (Outhwaite and Ray, 2005: 149)

Regardless of the differences above referred to, the strong link between the state and civil society is accepted by majority of authors. For example, Pérez-Díaz conceptualizes the mutual interactions between the two entities by focusing on the double input of the state which is at the same time "a coercive apparatus" and a "service provider" (Pérez-Díaz, 1993: 58). Accordingly, "as a coercive apparatus the state claims the monopoly on the use of force as a precondition for maintaining external and internal peace", while having at the same time the role of a "provider of a variety of services", supporting the society to "attain economic prosperity, social integration, and a sense of collective identity." (Pérez-Díaz, 1993: 58 -59)

As far as the conceptualization of this relation is concerned, the same author argues that

> "a crucial – though not always very clear - aspect of the relation between the state and the civil society is the legitimacy that the state draws from the civil sphere. Legitimacy is important to be considered for many reasons but the most obvious relates to the understanding that it can offer to the maintenance of the state rule." (Pérez-Díaz, 1993: 59)

Legitimacy and Legitimation of Political Power

The discussion of legitimacy comes as a continuation of the previous argument on the linkage between the state and the civil society. I start from the unproblematic assumption that in any relation of power, the holders of the authority seek the validation and the strengthening of their position. "All domination seeks to arouse and maintain the belief in his legitimacy", wrote Weber.[15] However there is little agreement in the literature on an ultimate definition of legitimacy and legitimation. Partially, this is due to the analytical problems inculcated in the concepts of legitimacy and legitimation of power. A first concern is translated into a

[15] Weber, M.: *Economy and Society,* 1978.

simple question: who (or what) needs legitimacy: the political system, the leaders, both leaders and system? The second question refers to those who offer the legitimacy, or using the Weberian language, who holds the belief in the legitimacy of the system / leaders. Broadly speaking, one needs to distinguish between the objects and the subjects of legitimation.

Max Weber[16] defined the legitimate domination as "the situation in which the manifested will (command) of the ruler is meant to influence the conduct of one or more others (ruled) and does influence it in such a way that their conduct to a socially relevant degree occurs as if the ruled had made the content of the command the maxim of their conduct for its own sake. Looked at from the opposite, this situation will be called obedience" (in Wesołowski, 1998: 105). Weber has been himself aware that these categories would be useful for analytical purposes and that in reality is unlikely to find these pure types into place. Apart from this, his approach has been much criticised for the insistence on the subjective elements involved in people's subordination to authority. The centrality of the *beliefs* in legitimacy obscures the relationship between the subjects and objects of legitimation and makes difficult its empirical research. Another critique pointed to Weber's lack of concern for the illegitimate types of domination (Mommsen, 1994).

Approaches that seek to go beyond the level of beliefs place at the core of legitimation the manifest expressions of subjects' acceptance of a given order, in other words, the "expressed consent" (Beetham, 1991). The expressed consent, according to Beetham, consists of specific public actions that confer legitimacy to the powerful, by being public expressions made by subordinates, of their consent to the power relationship and their subordinate position within it. These actions entail a strong "publicly symbolic or declaratory force" (Beetham, 1991). Among such actions, the most significant and binding is the participation in elections, through which citizens "legitimate governments", while they assume the principial obligation to obey that government. It is the assumption that guides the

[16] The well-known approach of Max Weber advances three types of legitimate domination, each of them grounded in the subjects' belief in the legitimacy of one dimension of the authority. These are: (1) the *traditional domination* ("established belief in the sanctity and the legitimacy of those exercising authority under them"), (2) the *charismatic domination* (based on "devotion to the exceptional sanctity, heroism or exemplary character of an individual person and of the normative patterns of order revealed or ordained by him"), and (3) the *legal-rational domination* (grounded on the "belief in the legality of patterns of normative rules and the right of those elevated to authority under such rule to issue commands"). See Weber, M. *Economy and Society,* Vol. I, University of California Press, 1978;

contemporary liberal democracies. The empirical accountability of the expressed consent consists in assessing the levels of political participation, and the way in which the party system is arranged to give effect to it. The approach suggested by Beetham is both attractive and problematic. It is appealing because it points to manifest actions that would help – if not to measure, at least to estimate – the level of consent (as prerequisite for legitimacy) offered by population to a given order. On the other hand, looking at the political arrangements in which the popular manifestations of consent have a quasi-compulsory character, grounded on a strategy of coercive – punitive control, then we are not sure of what really lies beyond the "expressed consent." It may not be the certainty of the rightfulness of the order, but a negative motivation for participation: the avoidance of penalty (Ray, 1996). In this regard the Communist regimes (as subtypes of the authoritarian type of settlements) are a good illustration.

A further step is to distinguish between the legitimacy of the political system and the legitimacy of the leaders. In this sense, Lipset argued that the legitimacy of a political system could be understood as "the regime's capacity to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society."[17] If the appropriateness of institutions in the eyes of citizens is what makes the political system as such legitimate, one may further suggest that a political system remains legitimate even though the leaders, as individuals, face a lack of trust and support from the part of the population. These remarks lead to a further concern: what matters for the subjects of rule when legitimating (de - legitimating) their rulers? Is the overall performance of a government the decisive factor for the public to legitimate its power, or are also other variables involved in the legitimation process? Lipset has drawn the attention to the difference between legitimacy and effectiveness: "While effectiveness is primarily instrumental, legitimacy is evaluative. Groups regard a political system as legitimate or illegitimate according to the way in which its values fit with theirs."[18]

Alternatively, Beetham suggested that the factors contributing to legitimacy (applicable rather to the rulers) are the following: the legal validity of the acquisition and exercise of power, the justifiability of the rules governing a power relationship in terms of the beliefs and values

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[17] Lipset, S, quoted by David Beetham in *The Legitimation of Power*, Mac Millan, 1991, p.9.

[18] Lipset, S, quoted in Rozman, G, ed: *Dismantling Communism. Common Causes and Regional Variations,* Woodrow Wilson Centre Press, Baltimore, 1992, p. 291;

current in a given society the evidence of consent derived from actions expressive of it" (Beetham, 1991: 12-13). Lastly, Following the Weberian reasoning, Perez Diaz makes a distinction between the formal and the substantive legitimacy, supported by the idea that "the social agents ascribe formal legitimacy to the state's orders by virtue of tradition, affective or value-rational faith, or by considering the state's positive enactment to be legal." On the other hand

> "these agents ascribe substantive legitimacy to the state's orders by virtue of the link they establish between these orders and the state's ability to provide for society's survival and prosperity, in other words, the state's ability to solve fundamental problems or deliver public goods, such as defense against external enemies and provision of internal security, economic welfare, social integration, and collective identity." (Pérez-Díaz, 1993: 59)

The Question of Legitimacy in the Study of Civil Society – Closing Remarks

Having explored the meanings of civil society, its relationship with the political authority (state) as well as the nature and substance of legitimacy, one may turn to an important question: what kind of legitimacy is the one conferred by or claimed from civil society? Within the dual approach rulers - ruled, and conceiving of civil society as simply a subordinate of the state, the answer would be anything but problematic: popular legitimacy, manifested through support. Yet, neither the theory nor the empirical reality allows simplifying things to such extent. Throughout the evolution of the civil society argument, the idea of legitimacy had varying degrees of importance; though implicitly inculcated in the modern theories, the legitimacy issue gained more significance in the contemporary usage, particularly within those approaches that conceived of civil society as a challenging force to authoritarian regimes. Within the theories of democracy (the pluralist and liberal version), it is likely to presume that legitimacy given from or questioned by civil society manifests at the level of state policies and not at the level of the political order as such. Though pluralism did not necessarily argue for a strong state, it however assumed the legitimacy of the state as a desired outcome. For legitimacy to be strengthened, a diversified civil society that articulates the interests emerged outside the sphere of politics was needed. The institutions of civil society and the networks of associations in which individuals are involved result in two important outcomes: on the one hand civil society acquires influence on the decision making processes and on the other hand it helps to reproduce and through active involvement, legitimize the state.

The actual influence that civil society has on the political decisions is always subject to contestation, yet at normative level, theories of democracy assume an important role for civil society in sustaining the state, thereby confirming and reinforcing its legitimacy. At the same time, by conceiving of civil society as a site for critical evaluation of the state policies, civil society is assumed to be able to question the formal or substantive validity of the exercise of political authority. The exception in this sense is the elite model of democracy, which does not prescribe a significant need for legitimacy coming from a vibrant civil society. It rather suggests a system that functions by itself, within the formal frameworks that are nevertheless defined as democratic.

What happen when the democratic setting is missing? To answer this question, one needs to reflect upon the ways of legitimation of power by civil society within other types of political arrangements. This attempt takes us back to the competing understandings of the civil society, more precisely to that stream of theorization that sees in civil society a "sphere of action that is independent of the state and that is capable […] of energizing resistance to a tyrannical regime." (Foley and Edwards, 1996: 39) The normative assumptions from which one departs in assessing the legitimation of power by civil society will differ according to the type of wider political arrangement. This happens because the prerequisites (the characteristics of the regimes within which the civil society operates) are significantly different.

One may use for instance the dimensions identified by Linz and Stepan, with the help of which the characterization of a political regime can become clearer. These are mobilization, leadership, pluralism and ideology.[19] *Mobilization* refers to the organized procedures to get groups in society involved in the political and civic life. The initiation and unfolding of mobilization takes place either in civil society (in democratic regimes) or is orchestrated from above (in more or less constraining manners) in non-democratic settings. *Leadership* refers essentially to the recruitment and maintenance of personnel from the top political positions. *Pluralism* stands for political, economic and societal spheres. Maximum of pluralism is to be found in democracies, whereas in the remaining types of political regimes, these spheres tend to be characterized by compactness and less differentiation. Finally, *ideology* represents the system of beliefs that grounds the political system and guides political actions. (Linz and Stepan, 1996)

[19] See Linz, Juan and Stepan, Alfred (1996): *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe,* The John Hopkins University Press, London.

Thus, focusing for example on authoritarian / totalitarian regimes, one should be aware that the above features have a bearing on the one hand on how civil society will be configured and on the other hand on how the mechanisms of legitimation or rule by civil society will articulate. In such a case the authenticity of mobilization cannot be taken for granted, as it is likely to be commanded and supervised from above and the leadership functioned largely through intra-party appointment of political elite. Further, as far as pluralism is concerned, to be sure there have been significant differences, from one country to another. Societal pluralism had better chances to survive where it emerged and gained substance prior to the Communist take-over. Lastly, the ideological dimension of Communism was characterized by the party's systematic efforts to inculcate the official ideology in all spheres of society.

Many scholars argue that Communism has been in most countries an illegitimate form of domination. Agnes Heller - one of the leading representative of revisionist Marxism of the Budapest School - suggested that these regimes did use several modes of legitimation, corresponding to the sequential phases that they went through. The author argues that the Soviet-type regimes relied successively on non-legitimacy, Stalinist charismatic legitimacy and finally traditional legitimacy. Heller suggested that these types interfered with one another, and that they all contained a substratum of substantive rational legitimacy. (Heller, 1983: 137-155) Occasionally, the regimes relied for legitimation purposes on the proliferation of national ideology (in the case of Romania notably). "The legitimation of social order" was – according to the Heller - one of the main functions of the party in the communist countries of Central Eastern Europe.

The insufficient ability to secure a permanent reserve of legitimacy should not however be attributed solely to the communist states / authoritarian regimes. This is part of a more general occurrence observed by Pérez-Díaz: "Given the limited ability of any rulers to solve the basic problems facing any given community for more than a brief period of time, symbolic performances play a crucial role in obtaining the society's consent." (Pérez-Díaz, 1993: 60) The immediate consequence of this is a continuous "bargaining" between the state and the civil society. In the case of Communist regimes, bargaining became an integrative part of the antithetic rapport established between the two sides. The strategies of power legitimation under authoritarian settings raise important problems and further research is needed to fully understand the intricate concessions between the civil society and the state and the latter's quest for legitimacy.

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