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Antonie Cristian BOCANCEA*

Abstract

Post-communism is a historical age and a social phenomenon of an utmost complexity within which there take place various processes which re-compose institutions but also change the informal networks of power and modify the patterns of the collective mindset. In this context, clan structures appear to be socializing agents (with an identitarian and redistributive function relative to economic resources), which replace official and legitimate institutions and generate social pathologies such as normative depression. The greatest danger to young democracies is represented by the situation in which clan-based organizations become parasites of governmental and legal institutions because in such a context they would not only interfere with the correct functioning of the state but they would also produce a feeling of injustice and mistrust in the social imagery.

Keywords:

Administration, clan, corruption, justice, transition.

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Introduction

During its two decades of post-communism, Romania has passed through a series of complex processes of transformation of its institutions, socio-economic structures and mentalities and evolved from the condition of a society blocked or "closed" in the totalitarian paradigm to the status of a free civilization, with strong premises for potential prosperity and the establishment of social justice. Throughout this span of time, the changes were triggered, on the one hand, by society's internal need to get rid of the blockages specific to communism; yet, on the other hand, there was a constant pressure from Romania's European partners, who conditioned the country's accession to Euro-Atlantic structures by a given progress on the road to democratization and to the creation frameworks for a functional market economy. These pressures were often more important than the political determination of Romanian authorities and the willingness to reform of the society at large.

Among the elements which were the hardest to change there were those relative to the collective mindset and the informal networks of social power. In fact, they determined the speed at which the institutional framework changed and they made so that Romania was perceived, at the European level, as an unfortunate example of "naturalization" of institutions and democratic norms. Almost five years after the accession to the European Union our country is still monitored in what regards its progress in the field of justice, is kept outside the Schengen area and its sees its citizens being limited the right to work in many EU states. Of course, these failures may be accounted for, in part, by the global economic crisis and the revival of nationalisms in the Western world, which materialized in xenophobe speeches and policies. Yet, at bottom, we should admit that Romania's imagine inside the Union is mainly the "work" of Romanians.

A scar which is hard to remove from Romania's European face is the existence and the prosperity of clans – as criminal structures which function as parasites of state institutions and gain privileged access to the community's resources. While highly democratic societies, in which the mechanisms of competition function correctly, may be defined as "polyarchies"[1], Romania is still defined by clan structures which block the

[1] The concept of "polyarchy", launched and made famous by Robert Dahl in the '60s-'70s, refers to a political regime in which there are several centres of power which

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administration, corrupt justice and demoralize society. Although the annual reports of the European Commission regarding Romania's progress within the mechanism for cooperation and verification[2] do not mention the clans' negative impact on the functioning of justice or government, this phenomenon is serious and profound and it is very hard to displace. Well-known as well as less socially visible clans operate with no diffidence and no scruples, either by "pillaging" the institutions of the state (i.e., by introducing into them their hard-core members or those of their circles of obedience) or by maneuvering them through intermediaries. Clan-based cooperation schemes are to be found from the level of local communities (where the administration has recruitment habits based on the criterion of kinship and friendship) and up to the top of executive power or of the legal system (where clan membership is judged according to appropriate economic terms).

Dimensions of post-communist transition

The changes that have occurred in the Romanian society after 1989 are usually divided into two categories, seen as representative: political democratization and economic reform. To a great extent, they are

mutually divide and control its exercise, as well as a regime of full active citizenship (that is, most of its "formal" citizens actually express their position / opposition with respect to the actions of those who hold the power (*Poliarhiile / Polyarchies*, Institutul European, Iaşi, 2000).

[2] The Report, published on 20.07.2011, says that: "The Mechanism for Cooperation and Verification (MCV), has been established on the accession of Romania to the EU to help Romania put in place an impartial, independent and effective judicial and administrative system. Changing the legal and judicial system to further align it with the other Member States is a national task. It requires the government to prepare and propose the key framework laws, the Parliament to adopt them and the judiciary to change its procedures and practice to implement them as intended. Since 2007, MCV has played a supportive role in helping Romania put in place the structures of a modern judicial system. At times the MCV has been contested and criticized by one or other element of this necessary national consensus but today it is widely acknowledged that it has helped promote change in a positive direction. The Romanian Government has shown determination and commitment in driving the reform process. The Parliament or, until recently, the judiciary have not always showed the same determination. In five years the emphasis has shifted from the preparation and adoption of laws to their implementation. The elements of the legal framework needed for the reform are now largely in place, even if not complete. As will be seen from this report the next necessary steps in this process should focus on implementation by the judiciary of the new laws.

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the crucial coordinates of post-communist transition: on the one hand, the abrupt change of political regime, at least at a formal, institutional level; on the other hand, the reconfiguration of the economy starting from the basic datum of private ownership and enterprise. Within this paradigm, advanced by both local and foreign analysts of the transition phenomenon, there is a methodological simplification and schematization whose stated purpose is to make concepts "clearer" and to theorize satisfactorily a segment of recent history which has not had any "user manual", not even one from the ideological category of those which had guided socialist revolutions or, more recently, the authoritarian modernization of a series of South American, Asian and North-African nations.

Transition had not been "foreseen" or "foretold" by anyone, not even by the traditional adversary of the communist camp – an opponent apparently happy with the world order negotiated, in the late '80s, with the recently reformed Soviet regime. Unannounced and surprisingly easily produced, the fall of communism found mankind completely unprepared for what looked like the overturn of the "historicist logic" of the sequence of periods or ruling orders through the infallible mechanism of class struggle. And how could anyone be prepared to understand or even to stimulate behaviors such as the working class' struggle for the social restoration of capitalism, or giving up the "comfort" of the statist order for the benefit of uncontrollable polyarchies? In these circumstances, the analyses about the stages and levels of transition have been limited to the simplistic scheme of the changes occurring in political institutions and, at the same time - but not at the same pace – to the economic reform. Of course, there have also been analyses about the collective psyche, the patterns inherited from the old regime and reshaped by formal democracy, the systems of identity reconstruction, etc., but they often took the form of lamentations, of pseudo-social niche philosophies which usually hid political frustrations, personal dissatisfaction as well as other mixed feelings. This was the general picture, especially during the first post-communist decade. Subsequently, however, more and more radiographs of societies in transition have been conducted based on rigorous sociological study, on the comparative method and the criticism of the subjectivity generated by identitarian coordinates.

In this new type of literature - deliberately scientific – several issues have been defined; they move around the assumption of a gap

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between form and substance (a hypothesis familiar to Romanian society for more than a century) or, in other words, between "official Romania" and "profound Romania". The landmark idea of the political sociology developed according to the coordinate of "multi-speed transition" is that Romanian society accepted formally the change of institutional frameworks and of ownership forms, but reacted very slowly when it was supposed to take on the values, behaviors and imagery specific to the world of capitalist democracy. Some authors have preferred to talk about "external transition" *vs.* "internal transition" (Vladimir Parti), while others (like Dumitru Sandu) have counteracted the theory of social classes and categories with analyses that define the so-called "social types of transition".

The clan – a concept suitable to post-communism

Somewhat in line with the explanatory paradigms of this type, and with some theories about the specificity of the new "elites" (i.e., the theory of "predatory elites"), we want to emphasize the special role played in the post-1989 Romanian society by a socializing entity, with an inclusive, identitarian, and especially redistributive character, which we describe as a *clan*. In our opinion, in post-communism, the clan took over the functions once fulfilled by the single party with the help of its nomenclaturist components. Even if they do not count large numbers of individuals and they are not a mass phenomenon, such as the communist organizations of regimentation, clans have become crucibles for pseudo-elite production and for the synthesis of counter-regulatory models but they also attract many citizens rendered poorer and more confused by transition.

It is widely known that clans are usually the subject of anthropological analyses related to the archaic world. In ancient societies, the clan seems to have been the major coagulating agent and the most important inclusive entity, often based on maternal blood ties, sometimes on paternal lineage, but always on an inventory of rules relative to the intergenerational transmission of ownership. Regardless of details, in traditional societies, clan membership certainly had a double substratum: kinship and property. The issue is even more intricate in modern communities, where the reference to the "common ancestor" – real or imagined – has been left behind by the "common interest" and the

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criterion of territoriality; also, in the modern world, clan membership is no longer based on ties sealed with blood; other rituals of loyalty – necessary in order to maintain the cohesion generated either by illegal actions or by the need to secure the clan in relation to other micro groups – have replaced the traditional forms of construction and conservation of clans. The modern clan no longer gathers only the people selected by genetics in an implacable lineage (we all know that we cannot choose our parents!) but also individuals who sniff the lifestyle of "patriarchs" and want to copy it – a goal that they are willing to pursue with genuine belief. The clan is the sum of all the people who follow a professional "big shot" who, in his turn, recruits his servants from both his offspring and his occasional "parishioners", all of them being compelled to think and act in a Manichean manner, to make their "superior's" beliefs their own and to see him as the beginning and the end, etc..

After such a definition, it would seem that the construction of clans is only possible nowadays in some communities governed by the culture of submission or in criminal societies; the clan should not agree with the value of freedom, with independent thinking or with „positive" normativity. For instance, it seems natural to identify clans of thieves or of proven anomic, no matter their antisocial motivation. But it is hard – and it serves our propagandistic purposes – to accept that a sense of clan membership also emerges in politics. Moreover, here, it is fully operational, not only ideologically but also across parties because, time and again, politics has been the way to get rich "with no restrictions". So, we are less willing to recognize and to admit that the areas traditionally placed under the sign of high culture could be reduced to the condition of clans; and, when constrained by evidence, we are eager to find various explanations which attenuate the pejorative meaning of the term, providing it with some sort of dignity generated by its "historical necessity". This happens, for example, when we examine the role of family ties in the reproduction of academic elites: it seems normal to detect "successions" (the children of academics have an additional trump card in their professional training), matrimonial transactions and other types of symbolic connections that bring together well established families of academics and their "satellites" of a more recent production[3]. As long

[3] The New Law on national education (published in Romania's Official Journal, Part I, no. 18/10.01.2011) produces major changes in what regards academic clans. According to Art. 130. - (1), "higher education institutions must adopt a *Code of university professional*

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as there are "clans" of artists, big capitalists, policemen and magistrates, why should there not be academic clans formed according to lineage and the inheritance of intellectual property?

Accepted as necessary or rejected as "immoral" and "illegal", the clans of the post-communist world represent a non negligible reality that configures the networks of power, of authoritarian redistribution of values and of informal normative production. They partially take the traditional roles of established political parties, they become parasites of the systems of social and cultural selection, they act as phagocytes of the state and of its administrative structures, and they are also penetrating even the European funding mechanisms. All these characteristics define them as powerful anti-modernizing forces.

How did clans emerge in post-communism?

Clan structures were also present, without any doubt, in the communist regime, interfering with the official power networks of "democratic centralism" and surviving overtly or secretly, according to their rank; the Ceauşescu family itself – along with the Petreşti and Bărbuleşti families but also with their faithful followers like Bobu, Dincă, Postelnicu, etc. – was the prototype of the comunistoid clan (similar to

ethics and deontology. The Code is part of the *University Charter* and it must include: a) the determination of conflicts of interests and incompatibilities; b) the provision that the people who are spouses, in-laws or relatives up to the 3rd degree cannot hold at the same time offices that would allow one of them to be in a position of leadership, authority or institutional assessment over the other, at any level within the same university and that they cannot be appointed as members of doctorate commissions, assessment commissions or recruitment commissions people whose decisions would involve their spouses, in-laws or relatives up to the 3rd degree". Art. 295, related to recruitment competitions states the following: "(1) The framework methodology for the recruitment competitions organized to fill vacant positions shall be established by a Government Decision, initiated by the Ministry of Education, Research, Youth and Sports, on the proposal of the CNATDCU. (2) The methodology shall set down, for each academic title or function, the minimal requirements needed to enter the competition, with reference to the minimal standards established according to art. 219 paragraph (1) lett. a), the rules for organizing and carrying out the competition, and solving the contestations, conflicts of interests and incompatibilities in order to assure quality, to respect university ethics and the legislation in force (…). (4) Upon the entering into force of this law it is forbidden for spouses, in-laws and relatives up to the 3rd degree to hold offices in which one of them is in a position of leadership, authority or institutional assessment over the other, at any level within the same university".

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the clan of pigs in Orwell's *Animal Farm*). However, the official ideology of the communist regime did not accept the idea that there were also power structures different from the formal ones; in order to maintain the meritocratic appearance of the mechanisms used to promote and reward, the single party established elaborate rituals – fully institutionalized – to set up "personnel files". With their help, a constant pressure was exerted from the center to the periphery, with the clear purpose of hindering the formation of any loyalty networks that would have not been controlled by the ruling family; the "file" was also the reason that motivated employees from various levels of authority to avoid any overt association with a comrade belonging to the first echelon of power. Usually, clan-type associations were only suggested; if they seemed dangerous, they were soon repudiated. In any case, they were shrouded in mystery and secrecy. Nevertheless, things have been entirely different in post-communism.

The crucial condition for the emergence of clan structured groups, after the dissolution of the Communist Party and the "dispersal" of the former nomenclature into the numerous parties created under the Decree-Law no. 8/1989, was *the lack of redistributive authority*. The new formal structures of power were able to replace the RCP (Romanian Communist Party) only at the central level; in the rest of the country, the levers of decision were seized quickly by skillful people who managed to build their circles of loyal followers without any impediment as long as they continued to pay the price of obedience to the center. Within the RCP, there was a single clan, whose patron was the dictator himself, and the distribution of political and economic favors was governed by a uniform national scheme. After Ceauşescu's death, many smaller dictators have surfaced – showing the same appetite for the cult of personality and for the economic benefits of power – and they have created their own local clans, without the fear of being identified as centers of counter-power. Moreover, in the context of the numerous and virulent manifestations against the new power settled in Bucharest (especially in 1990 and 1991), a natural "regionalization" of redistributive authority took place with obvious consequences at the level of clans.

When we talk about the "opportunity" represented by the lack of redistributive authority in the birth of post-communist clans, we do not consider only the fact that any number of "well oriented" people of that time seized the chance to replace the structure of the old regime; at least as important was, from this point of view, the "social demand" for the

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formalized exercise of the redistributive function. Thus, in a society accustomed to the practice that any economic and symbolic value be allocated "from the top" (with an implicit reference to "from even higher than the top"), the emergence of the post-communist "bailiffs" (also called "local barons" later on) was regarded as a kind of restoration of functional normality, an apparent protection against the uncertainties of democracy and capitalism, and as a necessary sign of continuity in public life, within the matrix of the middle generation. From this perspective, the Romanian society after 1989 does not have sufficient evidence to support the theory of its "confiscated revolution" (or, sometimes, of its "confiscated economy"): there was not any seizure, but rather an act of "donation", mixed with voluntary servitude. This framework encompassed the privatization of the industry and of the banking system (through all the experimental "methods" of that time), the "de-collectivization" of agriculture, the privatization of trade and tourism. Showing a fatalist attitude, Romanians accepted the transition of state property into the hands of those "chosen" by the fate or the moment, perpetuating a mythology of powerful occult forces, described briefly, but suggestively, by a pronoun: "They". "They" – the holders of administrative knowledge, of economic levers and instruments of repression, originating to some extent from the old Communist elite, the structures of information or the industrial and banking technocracy - were considered evil, but necessary, culpable, but deserving. From these new representatives of power, people were expecting anxiously a certain economic generosity, a sort of remedial policy in relation to the deprivation endured over the last communist decade. Retrospectively, the error of calculation is obvious: "They" could not have been be more "good-hearted" or more prone to generalized charity, as long as they were forced by the global economic context to operate by the tough rules of the capitalist market, but also as long as the assertion of one's private interest was no longer censored by ideology or law.

The *regulatory depression* of the early years after the revolution was another condition for the birth of clans, amid the erosion of state authority and the decay of "politics dignity". The collapse of communism had left us not only without a number of symbolic figures of redistributive power, but also without any rules in this area. Formally, an important part of the legal system remained untouched after the change of political regime. The measure of abolishing the communist constitution and some

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laws – clearly discordant in relation to the new democracy and fundamental freedoms – did not represent a sudden reform of the regulatory framework governing the Romanian society; many regulations of the communist regime remained in force, with the same effects. They had to coexist with the new rules – both in civil and criminal law – especially in the case of property law, labor and social security law, commercial law, taxation, banking, etc.. Thus, the regulatory depression of the early years of Romanian post-communism was determined by the confusion between old and new legal regulations, a confusion that often mixed-up the meaning of "justice". This phenomenon was also enhanced by the old functional flaw of the Romanian society: the ignorance regarding laws, generally linked with a proportional appetite for their "personalized" and "approximate" interpretation. Finally, regulatory depression was also fed by the visible weakening of the repressive system, which was also fading due to its association, in the collective mindset, with the recently defunct dictatorship.

The effects of normative depression, in the area related to the formation of post-communist clans, can be easily observed in the production of a real system of new social behaviors and practices: confrontational / rebellious attitudes against the official order and government decisions; the defiance of regulatory frameworks, with the purpose of testing the authorities' ability to punish; the "invention" of rules parallel (and supplemental) to the official ones; the exacerbation of localism in regulations (see, for example, the various taxes imposed by the local government); the display of antisocial behaviors (once carefully hidden), as a sign of power and wealth. In this context, the clans are "guaranteeing" the "right" of some individuals not to mind the law.

The opportunity to illicitly gain private ownership of state property, without fear of penalty, was the main impetus, for any individual desiring power and wealth, to create a clan or to enter an existing one. If theft, as an individual deed, remained within the sphere of reprehensible behaviors, while robbery in organized groups (formal or informal) was increasingly seen as an intangible conduct. As the establishment of private property had become a kind of social and ideological "commandment", the attack against state property was supposed to receive a pseudo-legal, secure and efficient form in order to avoid its distribution according to egalitarian criteria (associated with communism). Basically, pieces as large as possible of state property had to become private property, operating within the

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market economy. But because no one had any legal or moral justification to gain a property right (excluding land ownership, where a slow, long and limiting process of reconstructing the properties lost during cooperativization was initiated), because distributing the "shares" of large enterprises to all the citizens of Romania was, from the start, an economic failure, clans remained the only social structures able to impose *ad hoc* rules for the redistribution of economic values. So, "sectoral" clans were formed in particular areas of economic activity. They have become true castes, impenetrable by novices, idealists and legalists[4].

From the sphere of the economy, we can easily slip into that of government, which encompassed about the same conditions for the formation of clans. Here, the birth and the reinforcement of clan structures developed alongside the deepening of the *decentralization*

[4] The expression "the smart boys from energy" – made famous by President Traian Băsescu – expresses in a suitable way the characteristics of an economy dominated by clans: "closed" and "illegitimate" interest groups, supported furtively at the governmental level, benefit from contracts with state-owned energy producing companies, from which they buy cheap (usually at the kilowatt price produced by Hidroelectrica); then, they sell the energy back into the system, at the average or even top market price, including to some companies which run on state capital. From this privileged process the state incurs only losses because its own energy-consuming companies function in the conditions of a free competitive market while its energy-producing companies sell it below the market price. In a speech delivered on November 24th 2011, at the opening of the Conference *The Economist*, the President said that the mechanism through which the "smart boys"' companies became parasites of the energy system had not been destroyable with the tools of the state's president and so they were even less destroyable with those available to the structures which occupy lower ranks within the hierarchy. The President's hopes went to the European Union: "It is likely that, once it enters the area of interest of the DG Competition from Brussels, we would receive consistent support in solving this type of issues". On the other hand, the president of the Hidroelectrica Company also expressed his desire to reopen the issue of these damaging contracts: "All the contracts which expire in 2015, 2017, 2018 have renegotiation clauses. We will do our best to increase prices. We want at least 3.5% more, and where it will be possible, to increase them according to the inflation rate or even up to the market price!". Constantin Trihenea – the boss of Hidroelectrica – displayed a "heroic" speech, that of someone who wished most ardently to recover the losses incurred by the state; yet, the measures proposed will not lead to the extinction of profiteering clans: a 15% reduction in the quantity of energy delivered will not influence in a decisive manner the illicit gains of the "smart boys" and the possibility of terminating the contracts is only theoretical. There will be a termination only if the European Commission decides that these contracts are masking a state subsidy. Under these circumstances, the discussions about the clans who steal from the state through "the scissors of energy prices" make nothing but strengthen the aura of impunity of these criminal groups.

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process. The seizing of power in devolved institutions and the emergence of new administrative poles with special purposes (government agencies, in particular), have favored the mechanisms of client recruitment, as in the famous case of the National Anti-Drug Agency[5]. In all these structures, the rule of loyalty to the head (who, in many cases, is also the creator of the structure) have become the basis for action and the justification of self-reproductive administration schemes.

[5] The National Anti-Drug Agency has caught the attention of the civil society from 2008, when it was discovered that its budget (of approximately 5 million euro per year) was greater than that of the operational police forces that fight against drug consumption and trafficking. While studying the Agency's activities (which focused on theoretical research and programs aiming at disseminating information about the harmful nature of drugs) the press discovered an even more "spectacular" thing: the fact that more than 10% of the staff were related or were in-laws of various superior officers from the Ministry of the Interior, from the Army or from intelligence services. The last public scandal related to clan structures that eat into state institutions surfaced in November 2011, and had to do with RA-APPS. The Autonomous Agency – the Administration of State Protocol Estates (RA-APPS) functions according to the Government Decision no. 60 / 21 January 2005, modified by GD no. 265/31 March 2005. The purpose of this institution (with the status of a legal person operating on economic self-management and financial autonomy) is that of keeping the integrity of the goods belonging to the state's public estate which are meant to support public services of national interest (representation and protocol for the Senate, the Chamber of Deputies, the Presidential Administration, the Government and the Constitutional Court), of the goods meant to support specific services for diplomatic missions, consular offices, the local branches of intergovernmental international organisations accredited in Romania and for their staff, and of the goods belonging to the state's private estate, which it runs. This autonomous agency subordinates to the Secretariat General of the Government, which is currently run by Daniela Andreescu. On the background of the discussions triggered by the Government's intention to sell from the State Protocol Estate a number of 700 buildings (rented by various dignitaries or by private companies) the press discovered that among the beneficiaries of low rents there were Daniela Andreescu's former husband (Aurel Teodorescu) and her daughter (Irina Zisman). It was also the press who revealed that Bogdan Teodorescu, Daniela Andreescu's stepson, was her personal advisor at the Secretariat General of the Government in 2009 and that he is currently the director of the branch which manages the real estate. Seeing that all these combinations are backed by seemingly legal contracts and hiring "based on competition", presumably, neither Daniela Andreescu's former husband, nor her stepson nor daughter will have anything to lose. Each of them will reach the end of their contract or, if they wish to, will buy the building that he/she is now renting. Uncertain is only the contract by which Irina Zisman's company has the exclusive right to provide Romania's Senate with floral arrangements. The Andreescu-Teodorescu clan from the RA-APPS is definitely only the tip of the iceberg in the area of businesses with the state real estate.

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How was it possible for the Romanian post-communist society to accept such a clearly anti-modernizing development, when the main watchword seemed to be "competence" after the fall of communism? We believe that the phenomenon is explained by the *deficit of social capital*. Under these circumstance, clans were attributed the credibility that was not enjoyed by the associative structures of the civil society; to achieve a personal goal – be it legitimate – it was not the "visible" organization that mattered, but the complicated underground structures, friends, and mutual obligations, which were often very successful. With composed detachment and easiness of conscience, Romanians from almost all walks of life took part in the construction and consolidation of pro-clan behaviors, when they could not accept any administrative, economic or cultural relationship outside the habit of oferring gifts and counter-gifts, outside the networks of acquaintances, incentives etc.. The corollary of all this was the overturn of the system of values, with money atomizing the intellect, interpersonal relationships paralyzing the criterion of competence, and so on.

The functions of clans in post-communism

The description of the conditions that led to the emergence of clans in post-communism shows not only their harmfulness to society, but also a number of regulating functions, which were not performed by any other structure. Essentially, most clans - political, economic, intellectual, administrative, judicial and mixed – meet some basic social needs.

The identitarian function is one of the most important because parties and ideologies have failed to create loyalties to a specific project of society; thus, loyalty comes down to the level of private interest and is personalized. It links the individual to the relational system governed by a local (or regional) "baron", it outlines the individual's membership and, by default, "identity"; to belong to a clan, with all the correlative benefits, means to be "someone's man", to feel its support and protection – the basic need of Maslow's pyramid. Yet, we should not believe that this identitarian function was completely confiscated by clan structures in post-communism. In the absence of the deceased "mass and community organizations" and of the ill-famed "class consciousness", ordinary people still relate to family, school and professional frameworks; their rediscover

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their membership in small local or rural communities or, in some cases, their identity is shaped by neighborhood relations (in the urban habitat). There are also virtual identity projections based on certain types of television shows – South American soap operas (then and indigenous ones), entertaining shows, games and contests – that help individuals with modest social and economic status to escape from daily life, to build an imaginary world of prosperity. Clans are not, of course, accessible to these people; they include only those who have overcome poverty, psychological obstacles, and the stage of empty dreams and defeatism. Clans ensure a plus of identity to active, determined people.

Closely related to the identitarian function, we also notice a *mechanism of inclusion* vs. *exclusion.* Post-communist Romania has been committed from the start to an (apparently) extensive labor of exorcising the "evil" (although the "trial of communism" was an empty form): all fields of activity have witnessed skirmishes with former heads of the Communist Party, with "Security moles" and loud supporters of the old regime. They had to go through a process of "purification", which necessarily began with an "exclusion". After the "social loneliness" of purification, any individual subjected to this process could (while feeling entitled) seek inclusive shelter in clan structures that loved the status of "stained" people just as the Devil loves the sinners. Thus, within clans, the old ideological and professional "sins" were washed away, and the offenders were subsequently reintegrated.

Learning the rules that govern the functioning of a democratic society and the market economy in post-communism was left, for a long time, at the discretion of each social actor – whose capability to adapt was implicitly tested. The situation was generated by the lack of new formal socializing entities, owing to the belief that democracy should not resort to methods of "conversion" contrary to its own spirit. Therefore, the function of *political and professional socializing* was performed, in some cases, by clans: they were much more involved than official establishments in administration, economy, politics and education. Clan structures were the means used to transmit a specific skill to operate socially – a skill owned by monopoly and shared only for private benefits. This may sound strange, but this is the style used in the European Romania to talk about administrative skills, writing "European funded projects" or about learning and pursuing the steps to promote in politics. The clan is therefore an essential source of social and political *know-how*. It only shares

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its knowledge with those chosen according to the criteria of loyalty and gratitude. On the other hand, since it manages privately and restrictively some pieces of knowledge that should be public and open, the clan becomes a structure where competence is confirmed, an establishment of "certification" more important than official institutions (that are eaten into by it any way).

Social learning is supplemented naturally, in the logic of clan structures, by the *redistributive function*. It creates the most loyal clan members, by making them transcend ideological, professional and cultural boundaries. The clan is first of all the structure that distributes resources authoritatively, that facilitates the access to public money and establishes relationships even in the private economy – sometimes in spite of the rules of competition and performance. Clan membership ensures monetary benefits, access to benefits of different nature (private use of public goods, for example), a privileged position in the economic competition, the elimination of other competitors, etc.. Thus, the clan reconfigures the logic of market economy.

We cannot ignore the *recreational function* of clan structures, disguised in Western-copied schemes like *team building* or *scial event*. In these contexts, there is a symbolic public affirmation of clan membership, a revelation of loyalty networks and specific hierarchies. In such public contexts, individuals "find" each other, deal, plot, etc.. Participation in the public events organized by the clan is seen as a sign that the individual is still "dear" to the clan while absence is understood as a sign of rejection, of confidence withdrawal.

This inventory of characteristics and functions (incomplete, of course) illustrates the *anti-modernizing* nature of any type of clan in the post-communist society. This nature is expressed by the following attacks against the health of the social body:

- It personalizes power instead of institutionalizing and formalizing / rationalizing it;
- It disturbs the mechanisms of selection according to the criterion of competence;
- It becomes a parasite of parties and other political and non-political associative structures;
- It accentuates the deficit of administrative capacities;
- It discourages political participation;
- It helps in the proliferation of corruption mechanisms.

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- Nevertheless, after all, anti-modernism is nothing but a facet of postmodernism where we feel so comfortable!

Clans and the functioning of justice

The fact that clans exist is widely known and accepted almost as a fatality, not only by the civil society (which seems to have become tired after its long and futile effort to reveal clan structures and their harmful effects) but also by high authorities of the state (from the President to the chief of the Romanian Intelligence Service). Both the civil society (through the press and the NGOs) and top authorities have shown many a time that Romania is being "looted" by such groups, formed not only by common criminals but sometimes even by politicians and civil servants who, in principle, should watch over the way law is abided by. Therefore, we are dealing both with clans which operate by the methods of brutal criminality, defined as such in the *Penal code* and with clans which operate under the appearance of lawfulness or in the name of some legal principles. Some are quite visible, while others are "discrete". But both categories are profoundly harmful; they both create in society a feeling of insecurity and mistrust in the state's institutions.

In what regards the current situation of "traditional" criminal clans, the director of the Romanian Intelligence Service (RIS) stated, in October 2011, during his hearing in Parliament, that "over the past two years, the RIS has forwarded to Romanian criminal investigation bodies (...) over 1500 notes referring to these aspects (the clans' existence and activities – my note). These notes referred not only to national aspects, but also to local ones; so, each county division of RIS has the duty to inform local factors about these phenomena and there are detailed maps relative to clans and their activities at the county level, very clear maps drawn up by the RIS and forwarded to the Ministry of the Interior or the investigation bodies". The "maps" of local clans, sketched by the RIS and forwarded to local authorities, are mainly based on the so-called "open sources", i.e. news from the press, television shows which launch information / accusations of criminality and corruption, etc. Starting from these sources, the workers of the intelligence service begin to collect data which are more comprehensive and soundly documented so that the reliability of their reports is, in principle, greater than that of rumors or journalistic investigations. Yet, George Maior was sorry to notice that the

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authorities' reaction to the informative notes sent by the institution run by him is quite faint and that this is a weakness of our legal and crime prevention system.

Lately, the press has presented not only accounts about a given clan which operates in an area (territory) or field, but true "synthesis reports", about which we may say that they resemble the "RIS maps"[6]. The image sketched in news articles is somewhat terrifying, as it shows Romanian cities being "administratively" divided between criminal groups known by everyone but which are not bothered by authorities unless a clan member accidentally "slips" into a caught-in-act criminal deed. As a recent illustration of this phenomenon, the Butoane clan from Giurgiu

[6] For example, in the *România liberă* issue from November 25th 2011, Valeria Cupă offers the following information regarding the clans of Bucharest and their distribution by sectors: "The supremacy of Sector 1 is disputed between the Twins, Sadoveanu, Buba, Capone and Domnut. The Twins specialize in the stealing of luxury cars and one of their victims was Gigi Becali. The Sadoveanu (or the Belgians) are mainly in charge of human trafficking, prostitution, drug trafficking and robbery. Buba has an undertaker and churchyard business, and Capone asks protection fees and controls illicit cabs. Domnut deals with robberies and prostitution around the North Station. Sector 2 belongs to the Duduieni and Carani. The former clan deals with prostitution, usury, blackmail, drug trafficking and burglary. The Carani specialize in shop-lifting, drugs, blackmail. Their victims include various professional sportsmen from Buftea and a businessman from Cernica. The area of the great shopping malls Niro and Europa is covered by Gigi Corsicanu, whose real name is Gheorghe Răducanu, the leader of the supporters of the Rapid football club. The Sector 3 underworld is led by Chira, Pietroi, Burtea and Cuza. Chira deals with kidnapping, blackmail, prostitution, extortion, scrap business. Pietroi is a specialist in robbery, blackmail and beating. Burtea or the Brătieni bet on scrap and Cuza on prostitution and drug trafficking. Sector 4 is known for the activities of the Sportsmen's clan and for some underworld groups such as the Gruia, the Drummners and the Benga. The sportsmen demand protection fees and those who are unwilling to pay are threatened and beaten. They also deal with credit card frauds, usury, destruction and blackmail. The members of the Gruia clan also ask protection fees but they are also adept at stealing and robbing. Protection fees are also asked here by the Benga and the Toboşari. Sector 5 is «claimed» by the Şteoacă and Pian groups, the latter being formed after the fall of the Cămătari. The Şteoacă clan is one of the largest drug trafficking networks from Bucharest. Prostitutes are also controlled by them but they are also experienced usurers. Sector 6 is controlled by the Fighters' clan. The leaders of this group were involved in the theft of guns from Ciorogârla. There are also other underworld leaders who have divided areas between them. Vasiloi, Buba and Vali the Fool's band mainly deal with protection fees, human trafficking and reclaims". (Valeria Cupă, *Prostitutie, trafic de carne vie si droguri sub nasul nostru. Clanurile care conduc Bucurestiul / Prostitution, human trafficking and drugs right under our noses. The clans who rule Bucharest*, 25.11.2.11, http://www.romanialibera.ro/actualitate/eveniment/prostitutie-trafic-de-carne-vie-si-droguri-sub-nasul-nostru-clanurile-care-conduc-bucurestiul-243388.html

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caught the attention of the mass-media and of the prosecutors only when one of the people close to the clan, Ionuţ Tănăsoaia, was arrested for the murder of the American basketball player from CSS Giurgiu, Chauncey Hardy. The same situation is to be found in other urban areas, where people pronounce in fear names such as Corduneanu (in Iasi), Feraru (in Buzău), Ghenosu (in Ploiesti), Bercea Mondial (in Slatina) etc.

If it is easy to understand the reasons behind the proliferation of traditional criminal clans (which emerged in the context of transition and globalization), the clans developing within state institutions seem to be some sort of malign masses which are hard to explain: how come, in a democracy (when the society's level of control over the exercise of political power is supposedly increasing), is it possible for some structures to emerge and develop when the system should have destroyed them almost at once by virtue of bureaucracy's "Weberian rationality"? The answer to this question is not simple at all and involves taking several alternatives into account, each of them presenting a given amount of truth. For instance, it is known that democratic regimes, unlike totalitarian or authoritarian ones, have less harsh punitive systems and put a (sometimes excessively) high price on the presumption of innocence; then, in a democracy one can invoke quite many "rights" in whose defense they may also use the persuasive toolbox of the mass-media; finally, democracy overturns the relation between the public and the private, that is, the scope of individual and group "private businesses" is clearly larger than that of "public businesses" wherein the state is allowed to interfere. Be it only for these reasons, democracy seems to be more permissive for clan structures and arrangements.

In this explanatory context, clans no longer appear to be "aberrant" realities but structures which are likely to emerge even within the institutions which embody the legal power. Within those, on the background of a given "availability" to deeds of corruption, there progressively emerge a series of clans which begin to "cooperate", from the level of criminal investigations to the moment when definitive and irrevocable sentences are uttered. Policemen, prosecutors, lawyers and judges connected by common economic interests and kinship actually "rule over" the act of justice in the case of the common people who need it or, at another level, they determine the state to acknowledge and to

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offer them special wages and pensions which are, to a great extent, not justified[7].

Justice clans, which are quite frequently described in the press, are also likely to have emerged out of the professional dynamics specific to the contemporary world, where it is quite common, as a rule, for children to follow their parents' profession, thus perpetuating social hierarchies[8]. It is also easy to understand that the professional setting is an area where matrimonial strategies are also operational so we should not look suspiciously at the presence per se of magistrate families (including here other "adjacent" professions). Yet, the issue gets more complicated when we discover actual networks of influence or "battered roads" that the people who need justice must follow if they seek a favourable solution to their problems. It is only then that the clan deserves its pejorative connotation and should be put in the spotlight.

A fundamental step towards revealing justice clans was taken with the adoption of Law no. 303/2004 on the status of judges and

[7] In Andreei Pora's article titled "The Judges' Clan, an assault against the state of law", published in *Revista 22* on 14.07.2009, it is said, quite rightly, that: "By their recent actions, judges have placed themselves over the other two powers of the state, the legislative and the executive. Not only do they make laws to their own advantage and break laws and decisions of the Constitutional Court but, in a clan-type sort of solidarity, they blackmail the state by threatening it with blocking the act of justice and elections, which undermines democracy itself and the role of justice. Moreover, the 300 million euro demanded now by judges, right in the middle of the economic crisis, represent an act of defiance to a society to which they nevertheless belong. A society which feels that it is poorly served and defended by justice, which is seen as corrupt and ineffective (…). The fact that the magistrates feel entitled to disproportionate gains in an economically difficult period and, above all, the fact that they use their power discretionarily in order to receive them are also due, to a great extent, to politics. The opposition against the reforms introduced by Macovei, particularly, the system's reluctance to be reformed and professionalized, was overtly supported by PSD and PNL, who voted in parliament all the laws that blocked the activities of DNA prosecutors. In fact, it was a policy that encouraged conflicts between prosecutors and judges to the advantage of corruption files. United, unfortunately, by their greed, the prosecutors, who had managed to take a small but important step towards a feeble kind of independence, began to use the judges in order to increase their income. And so, the circle closed and the magistrate's caste became, once again, an anti-reformist body". (http://www.revista22.ro/clanul-judecatorilor-atentat-la-statul-de-drept-6349.html)

[8] In Western sociology Pierre Bourdieu and Jean-Claude Passeron's book *La Reproduction. Éléments pour une théorie du système d'enseignement* (Minuit, Paris, 1970) is widely known and it says that education systems contribute to the reproduction of class structures through mechanisms of "symbolic" (cultural) "violence".

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prosecutors. According to article 5, paragraph 3, judges, prosecutors, assistant magistrates and specialised auxiliary staff are compelled to declare by their own liability if their spouses, relatives or in-laws up to the 4th degree work in the legal system. Currently, the website of the Superior Magistrate Council presents the declarations of all the judges, prosecutors, assistant magistrates, legal assistants and related staff so that it is easy to outline possible networks of interest which could alter the act of justice. Of course, it is not an easy task; it needs time and civic interest – things which are sometimes visible in the enterprises of the press. For instance, on 21.07.2008, *Ziarul de Iași* published "The map of relatives within the Iasi legal system", an article which showed that 112 out of the 209 judges and prosecutors had at least one relative who worked in the system. Many of them had "met" in trials, a fact which leaves open many question marks regarding the correctness of the judges' decisions.

Conclusions

The emergence and the development of clans during post-communism are phenomena specific (and inherent) to the ample process of reconstruction of social networks triggered by the institutional reform and the "reinvention" of the civil society. In all the countries which have walked the road from left-wing totalitarianism to democracy and from state economy to market economy there surfaced a series of interest groups (some legitimate, some not) who strived to position themselves as effectively as possible within redistributive mechanisms and to generate solidarities, identity marks and behaviours which would bring them a profit. The clans – based on both kinship/friendship and financial interests – replaced the political-administrative structures of the former communist regime by taking advantage of the normative depression specific to transition.

At bottom, the clans of the post-communist world play an anti-modernising role, eroding the people's trust in institutions, perpetuating obedient behaviours and striking at the effectiveness of the state of law. The most devastating effects of clan structures are felt at the level of public administration and justice; from these areas, they spread towards the economy and the civil society, blocking the process through which social capital is being built.

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