
NEO-PATRIMONIAL STATE AND DEMOCRACY IN CONTEMPORARY ROMANIA

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Abstract

This paper aims to present and to extend on a paradoxical institutional situation legally founded, at Romania's state level. This institutional paradox refers to the fact the establishment and democratic behaviour in Romania's last decade are consistent with basic elements specific to a neo-patrimonial (feudal) type of regime. Thus, from a certain point of view, in the last two decades the Romanian society experienced a transitional stage from a Communist state towards a democratically organized state, starting with the post-communist period since 1990.

Keywords: political structure, political behaviour, political order, sovereignty, electoral law

1. Introduction

Transition's paradoxical dimension refers to the fact that, the path from a communist regime type of state organization to the democratic regime of Romanian post-communist capitalism displays solid elements of convergence - institutional behaviour, organization, political decision - consistent with elements that would rather belong to a neo-patrimonial (feudal) state than to a liberal democratic state. We will begin our analysis by presenting the basic concepts used to build the explanation on the paradoxical nature of today's Romanian state: a democratic state where universal suffrage and the principle of administrative and political power decentralization generate institutional behaviour and political-administrative decision with strong neo-patrimonial state features.

Working hypothesis: the more representatives of the Romanian state-centrally and locally are elected on uninominal vote basis, the greater the chances of experiencing behaviour and mechanism specific to a neo-patrimonial state.

Our hypothesis settles a correlation between two variables: V1. uninominal vote-mechanism to elect state's representatives in local, regional and central bodies; V2. the neo-patrimonial state (its components, such as

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clientelism, individual or group control of power and public resources' distribution for city halls within the same county, in the case of County Council President, or local resource allocation for a mayor – town, village).

In other words, our hypothesis states a direct proportional relationship between the idea of extending the universal suffrage (for state president and or for mayor in case of local elections, or other local and regional public administration structures) and the idea of non democratic behaviour. The assumption of such a correlation is related to the fact that the new type of legitimacy democratically applied to the President of the County Councils (CJ), for example (universal suffrage) can emphasize an arbitrary behaviour in public sources allocation throughout the county, where this may be directed by the President of County Council to municipalities and certain projects undertaken for political reasons. Such kind of behaviour is connected to a clientelist type of organization, specific to a neo-patrimonial state.

Within this hypothesis we will firstly try to present, concepts like: patrimonial state and neo-patrimonial state, secondly we will analyse the legal mechanisms that lead to a neo-patrimonial type of organization in contemporary Romanian democracy, especially during the 2001-2012 period.

This period of time appears in the Romanian public discourse as the local barons' one – in a type of circumstances in which this feudal chiefs, have their own Local Court, beneficiaries of an *ad libitum* power that can even influence state justice. The great problem of this neo-patrimonial essence, is that unlike the feudal state, the distributed and managed funds are mainly public resources-money from local, regional or state budgets (Governmental resources, that belong to each county, in a specific period of time, annually from the state central government budget).

2. State and statehood - a conceptual framework. Romanian legal literature

Statehood is a stand-alone field of Political science with subdomains, with definitional extent and even with special paradigms for analyzing the state phenomenon and its dynamics. Beyond this debate of opposition represented by anarchy (lack of state, as a doctrine that constitutes political structures and non-state ideologies) there are few analysis situations that do not include the state perspective in organization of human society. We, thus, have taken one by one different paradigms that compete in analysing the origins, justifications, structure and functions, as well as the reach extension of State functions that can be exercised in a society.

The sociological point of view on state, proposed by a founder of Sociology observes a correlation between the state and the social institutions with social experiences of a wider community. In 'The Division of Labour in Society' (1893), Emile Durkheim stated that the origin of social categories, the categories of understanding and of logical-religious categories can be found in social institutions and in collective experiences [1, 2]. Hence, the positive rights

(legal right system) have their origins in social solidarity rules. The state as an agent of collective consciousness and defender of social relations, in fact, a guarantee, seems to exclude the idea of an institution or of social policy agent that includes institutional violence [2, p. 32, 50].

The Marxist paradigm assumes that state origins must be traced in the emergence of social stratification, in other words, the State is equally a product of class exploitation and an operating instrument of social functions. (The essential ideas of the Marxist paradigm must be sought in the concept of unjust social exploitation; every historical era must be understood through class conflict and exploitation of the poorer classes by those who retain ownership of the means with which they produce goods and services in a society. Such logic class exploitation will cease only when the working class will be aware of the phenomenon and will organize a party of the working class, which will overthrow the capitalist system through proletarian revolution, while the society will reach the point of a determined organization, the last historical social arrangement – the communism, the principle ‘from each according to ability, to each according to need’.)

Human history must be seen, within this theoretical framework, as a practical history of class conflict, where the state has a legitimate role in class domination. In this paradigm, the state appears as an instrument of social exploitation, with a determined historical period of time. The state will disappear when the cause which generated it - class exploitation - will disappear, more exactly in the communist society - a society with vague historical determinants. In a different paradigm, Max Weber thought of a state definition based on identifying its vital performing functions for the human community, regardless of the forms and historical existing periods: the state is the arena where interests, people or conflictual groups meet. We are not suggesting here a definition of the modern State throughout history. If it comes to such archeology of modern state definitions related to the idea of nation, the oldest definitions in the dictionary seems to be the one in the Dictionary of the French Academy in 1694, where the nation stands for “all citizens of same State or same country, living under the same laws and using the same language”. State would be in this conditions an institution subordinated to the nation, mandatory to a territory, a legal and a common language for peoples (nations).

The state is thus an instrument of domination and of political order. Unrelated to the idea of class domination belonging to the Marxist paradigm, the state is the institution that holds a monopoly on legitimate violence in a given territory [3]. The state is thereby a political ‘enterprise’ (institution) that generates social binding rules for the entire social corpus and has the mechanism to enforce or to correct any rule-violation behaviour as the state possess the “monopoly of legitimate physical coercion” [4]. This point of view about the state possessing the monopoly on violence must be tempered: Braud proposes defining and understanding ‘legitimate violence’ not only in the sense of physical force [2]. Physical violence - fine, penalty or criminal contravention of wage retention, physical restraint, which are all mechanisms that contribute to

maintaining internal order or defending against external intromission - is accompanied by a symbolic violence, that we particularly identify in forms of self-founding and self-justification. A state needs a whole symbolic arsenal to establish and to be accepted and recognized - a set of signs and symbols to which possess monopoly in a given territory, starting with the nation and state symbols (flag, heraldic, etc.), the symbols of state power found in national holidays, issuing diplomas or private acts, collective, on the community's, family, law, etc.

Governors' action, by use of violence, represents a distinctive mean to achieve certain goals, violence being used only when all the other ways of solving the problem have been exhausted.

Resolving conflicts between two or more individuals, individual, group, group-group is not always violent. State interventions are beyond physical: economical sanction, different types of prohibitions, threat, they are all means which are defined outside intervention by physical violence. Romanian legal literature on statehood paradigm is of French inspiration, as it starts from the idea that the state is a legal entity and also an institutionalized form of political power manifestation that controls the territory and population. This institution has the attributes of globality and independence that makes it irreducible to other institutions or groups in that given territory [5]. Continuing this idea, Romanian legal literature refers to the State in terms of (a) an organized concept of people's power [6], (b) a mechanism to organize and define the political society in a legal system [7], that helps the population to determine its own sovereign jurisdiction, that establishes the executive, legislative and judicial branches [8]. In order to have a sovereign state that meets with those basic functions and features that place it in the category of democratic states, it must have, in all activities across all its functions the attribute of legitimacy. According to the theory of democracy, the public authority should have control, experience and restraint power on monopoly of legitimate violence (power to legislate and punish when the rule is violated) through free and periodic elections [9, 10].

These free periodic elections for communities' representatives in institution with public power are founded on universal suffrage and on a tight relationship between the candidate and the voter, easy to identify in the uninominal vote-things specific to State institutions that must be their legal foundation and guarantee. The suitable term to emphasize on this binding global value action for all members of the society seems to be 'legitimacy', as a quality that the state has tried throughout all historical eras to enforce, justify and manage it. Whatever action or constraint mechanism are undertaken in a given territory, it needs specific tools of legitimacy to explain and justify its reasons and necessity, as well as its right to administrate and manage actions or functions specific to public authorities. The legal system, for example, as well as its administration in a given territory - tax, regulatory justification, establishing and imposing a penalty and the cause of sanction needs justification as this unique right needs legitimacy. Without relying on legality, and especially on its acceptance, or even trusting legality it is difficult to manage society's legal

system [4, p. 36]. From this point of view, the monopoly of legitimate violence refers to violence in accordance with the law and state law [2, p. 56]. A state is thus self-legitimate if it has the right to establish itself, in other words, the state must possess the power or authority to rule in a given territory - public acceptance to produce their own *instituted* system - jurisdiction, rules, norms, symbols as an 'imaginary social contract' with this population, that the founders of contractualism explained it in terms of giving up some rights and individual freedoms for the guarantee of order and social protection.

3. The modern state and the traditional state

The modern state, known in the Romanian territory after more than two centuries than in Western Europe, was in each of its national circumstance preceded by pre-state form of organization, also known as *traditional state*. The basic difference between modern and traditional state concerns bureaucracy and how this was applied as a way to administrate social resources. Bureaucracy is a pure type of rational-legal authority, whose efficiency is given by the existence of specialized staff, by administrative discipline, by competence which allows that officials' duties to be rewarded with state benefits - salary, rights offered just by being part of a certain commonalty of specialized officials, within a contractual relationship that eliminates both the arbitrary in deployment and officials' arbitrary actions in his/her field of competence. The new state agent is an expert with specific action power and precise duties and competence - part of a rational process in management of social resources [4, p. 230].

The patrimonial state is a method to organize, where the political power shares at least one of the following features available in the pre-state form of society: the central government does not control local authorities, which act as real 'state within a state'; political power is allocated in accordance to clientelist interest both centrally and locally; justice is arbitrarily applied, where local seigniors interfere with justice or even are personally managing it, the local government may impose regulations to the central power in the later's disadvantage, local power has resources - money, weapons, soldiers, food, etc. that can control the central government, when this one needs it.

4. The feudal state as a patrimonial state

The traditional state is a form of political organization that can be called as in the Weberian paradigm, a patrimonial state. In such a state organization, the Sovereign offers patrimonies - whether to state officials - to individuals or to the whole community - a village, for example, may receive plots for use in common. This State where the Sovereign plays the role of the Patriarch or Supreme Leader in which being arbitrarily is a legitimate mechanism to govern, creates a series of phenomena, such as that represented by clientelism. The Sovereign has a clientele constituted by obedient people that serve state functions, moreover this categories have their own 'local courts' with clientelist

groups, a situation that makes state officials to be obedient both to the Sovereign, and to State. For a neo-patrimonial state, local or regional administration is customized by a local Sovereign playing the role of sovereignty not as a result of state sovereignty, but as personal sovereignty of central political power.

The patrimonial state has several power centres, in many cases, a particular power centre in the State is superior to a Sovereign. In the feudal state, for example, there can be situations in which a vassal king has a more powerful army than the whole kingdom, which meant that State and Sovereign monopoly on internal and external legitimate violence was relative: if the seignior's army refused to take part in war joining the Sovereign, the patrimony field inherited, along with power of an extended patrimony (villages, entire regions and their resources) could make the Seignior a really strong rival for the Sovereign or State.

Max Weber's analysis of the patrimonial state shows that the public-private separation becomes confuse. Apparently any action is made 'in name of the King', but often is the private interest of a local seignior-that rules over a part of State's territory and can use his power for private interest. In many cases the local seignior himself is able to administrate the justice in his territory, the seignior's contribution to state coffers is quite relative, in the same way the right to impose new taxes and fees is independent from the State's jurisdiction or from rules outside the patrimony. The patrimonial state, considers Braud while analysing the state, is (a) inadequate regulated, applying the law is therefore made in 'in the king's name' a very confusing form of authority. By using this principle the justice administrators can turn their decisions into something that has nothing do with general and stable rules. 'In King's name' can mean arbitrary rule too. Also, Braud continues his analysis saying the patrimonial state is (b) insufficiently institutionalized as one official can have social order and security tasks, as well as tasks of a civil servant responsible for collecting taxes or can even set the rent for a property in use of family or a wider community, or entrance fee in towns, cities, etc.

The neo-patrimonial state retains in a formal democracy these characteristics of the patrimonial state. Political actors build their decision authority in a formal democratic institutional framework, where periodic elections only apparently work free, where the right to vote may be bought by the local leader with gifts, or even money. In this formal democracy perfectly based on universal suffrage: (a) local leaders' behaviour has in the same time, a clientelar feature, that makes possible for them to subordinate local people to their own personal interest or to that of a certain network built by access to local and central resources, (b) the public-private distinction is general arbitrary and confusing, (c) while the votes they can bring to the centre power within the formal frameworks of democracy can represent an exchangeable asset to ensure legislative protection coming from the Centre, as in many cases the laws adopted in the Parliament are the result of local and regional interests.

It is obvious that the two terms – ‘democracy’ and ‘neo-patrimonial’ are converse in Political science. Practically, however, in underdeveloped or superficial democracies a patrimonial feature of the state continues to exist through a parochial dependent political culture - a culture of dependency and lack of civil society specific to a democratic political culture. As noted in the study of Almond and Verba [11], in the 50’s, countries like Mexico or Italy the converse relationship between democracy and patrimoniality turned into political reality. Today, the Romanian state seems to be part of the same model, keeping this dependence of voting citizens through a bureaucracy and a representative political elite that reveals local and regional interests. Thus, we can say at this stage of democratization, Romania is neopatrimonial.

5. What neo-patrimonialism is? Theoretical concepts

The concept of ‘Neo-patrimonialism’ as a suitable term for some situations and modern states, developed in the seventies, when, S.N. Eisenstadt showed the existence of mixed systems of contemporary organization. These systems use Weber’s characteristics of the patrimonial state in terms of governing system based on power relations where the state is personalized and state official are only responsible in front of the Sovereign. The political authority of the patrimonial state coexists with rational legal authority of state and sovereignty [12].

These feudal features may act against, or can even suppress bureaucracy this fundamental element of the modern state. The logic of patron-client relationship replaces the logic of bureaucracy seen as institution and can be traced both in centre-periphery, but also within any sub-system of local/regional government. Patron-client relationship is an active tool for exploitation of society’ resource in favour of a group or of patrimonial power. The exploitation of society’s resource within the patron-client relationship at different levels, determines a sort of a ‘privatization’ for these public resources, that are used for the clientelist interest existing in the sub-system of public administration throughout the country.

This concept gave birth to a whole division in the Political science, where political systems in underdeveloped or developing countries were analyzed from a neo-patrimonialist point of view. Applied to the reality of Africans states, the neo-patrimonialist metaphor turned into relevant studies, including the ones at the beginning of the XXI century, as that of Thandika Mkandawire. According to the author, neo-patrimonialism is a ‘style of governance’, that made difficult to identify the specific content within this policy [13]. He refers to a situation that can be explain with the following: institutional import together with bureaucratic structure, a flawed privatization, intended to explain everything and ending up by not explaining anything, from a scientific point of view.

Neo-patrimonialism could be defined as a political regime - the State's institutional aspect where rational-legal type of organization is undermined by a patrimonial-clientelistic type of organization [13, 14]. As in the case of the traditional state, the neo-patrimonial one uses its public office for purposes of clientelist relationship, turning the public sphere into a private one, likewise with the public interest and the state's resources produced throughout the state and society [15-18]. The Constitutional-legal type of organization and the mechanisms along with state's formal organizational procedures may thus be compatible with democratic regimes, while the content of State - power relations within all systems and subsystems of its central and territorial organization and representation are formed in base of clientelism .

G. Erdmann and U. Engel attempt in 2006 to provide a critical perspective on this concept, signalling, in the same time its amazingly analytical and explanatory potential. Therefore, contemporary researchers of this phenomenon, despite uncertainties and different theoretical and epistemological problems that this theory and concept may have, consider that the 'neo-patrimonial state' framework represents an important mean for explaining and understanding the so-called realities of modern statehood. In this perspective, neo-patrimonialism must be thought of as a political system with reference on legal domination insecurity, where the neo-patrimonial logic takes over the bureaucratic sphere without having it completely under control. Neo-patrimonial type of state organization requires to have in the same time state formal and informal (clientelist) power relations [19]. The most interesting heuristic potential of this concept seems to be the ability to relate social dominance with politics, many studies that used this concept reached interesting conclusions that enlarged knowledge on political regimes built on a mix of power relations. „Neopatrimonialism is a mix of two types of political domination. It is a conjunction of patrimonial and legal-rational bureaucratic domination. The exercise of power in neopatrimonial regimes is erratic and incalculable, as opposed to the calculable and embedded exercise of power in universal rules (or, in Weber's terms, *abstrakter Regelmäßigkeit*). Public norms under neopatrimonialism are formal and rational, but their social practice is often personal and informal. Finally, neopatrimonialism corresponds with authoritarian politics and a rent-seeking culture, whereas legal-rational domination relates to democracy and a market economy.” [19, p. 31]

6. State Sovereignty: public power from the people

The origins of the term 'Sovereignty' must be found in the meaning of state – a political science term, whose etymology goes back the idea of status - to stand up, continuity, conservation, permanence in Latin [20].

By using this meaning, in Social and Human sciences dealing with state issues, this concept is related to specific connotations (a) all the government apparatus (institutions of public authority), but also (b) state power streamed from supreme institution in a given territory, being able to exercise authority

over the entire society and to ensure a certain organization and a generalized behaviour required in society. The state thus becomes the exclusive owner of an unique power, which is given by the people (nation). State power is, in essence, unique, because The People (nation) is the origin, the sole and exclusive owner of state power. In this context we can say that overall state power in a given territory is sovereign.

The sovereign national state thus possess the legitimate monopoly of violence on its territory, establishing rules of social and political behaviour, without being dependent on other State or power. A state is sovereign, considers Ion Deleanu, when has the power to organize a society (population), to exercise, to determine and resolve internal and external problems, freely and according to his will, without any interference, respecting the sovereignty of other states and public international law [7]. However, we must not understand the absolute freedom as a state task in extern relation - state power in the international environment is limited by associations, organizations, rules and norms of international law, treaties and conventions to which a state is part of.

Sovereignty is (a) *exclusive and complete*- in a State given territory there is no other equal power, (b) it is *inalienable* - any kind of alienation, even partially, determines subordination of state to another state (extern) , or to other group or institution within the state's territory – a situation that would suppose that there is another equal or greater power in the same territory, (c) *sovereignty is indivisible* - state power is unique throughout the State's territory as it has established the rule of law, (d) sovereignty also has the quality of being *supreme* as it is superior to any other powers within state borders and in relation with state population, and also has the (e) *independence feature* – has the capacity to regulate the political organization of society, establishing the legal system and rule of law, types of organizing its economy and its relations with other states interdependency. For the neo-patrimonial state, challenging the state sovereignty comes from different internal actions related to the emergence of local power centres that use sovereignty for themselves, especially in connection with distribution of state's public resources. A clientelist bureaucracy is the informal version of state bureaucracy that would allow turning state sovereignty into a private one, a sovereignty of group or local patrimonial relationships.

7. Romanian Neopatrimonialism: formal democracy and local patrimonial power

Following the analytical perspective launched by Erdmann and Engel in Neopatrimonialism Revisited - Beyond a Catch-All Concept [19] the basic concepts of the Romanian neo-patrimonialism must be therefore searched in the conflict between formal and informal State organization and functioning. Thus, in state's action we can identify simultaneously formal bureaucratic organization and informal system of local-regional clientelism. From the same point of view the informal relationship of dependency crosses over, in many cases, the

rational-legal logic of the democratic decision-making system included in the Romanian government.

As a political regime, Romania can be called democratic taking in consideration a large number of factors related to the formal aspect of its organization. We are not talking now on certain finesse concepts like social influence, manipulation for getting votes and political behaviour in election campaigns that included buying votes, corruption and miss-use of voting system by transporting voters from one polling station to another [7].

We believe that it can be said that Romanian political leaders are elected in universal suffrage and the corruptibility of the voting system and of the electoral behaviour does not significantly influence the results of democratic elections. This cases and the absolute number of votes involved in this type of electoral corruption incident seem to be rather marginal compared to a majority of polling stations and constituencies where there are no abuse reported.

This means that Romanian neo-patrimonialism should not be searched in election fraud based on the uninominal rule, although this system is the main source of the neo-patrimonial state.

The democratic Romanian state is formally organized as a semi presidential regime that respects the essential rules of democracy. The government abuse of Constitution and law is usually part of an abusive interpretation of a confusing, lush and imprecise legislation, which does state clear if the President, for example, appoints the Prime Minister at the majority political party's proposal, a majority terms of seats won in elections. Another possible situation is that when a proposal comes from a parliamentary coalition or an electoral alliance won a majority in general elections

The unfortunate confusion and uncertainty of the law giver does not formally turn the Romanian political system into an undemocratic one, although the logic of democratic majority is violated in the following relation: President – legal political institution as an electoral alliance that is not a political party as suggested in the Constitution

In our analysis we are interested in the electoral part within democratic actions that concern use and selection of political power. The starting hypothesis of this paper can be remodelled here by reference to new observations, as resulted from the relationship between modern state-patrimonial state on the one hand, democratic organization of the state, on the other.

What we would like to show below is the possibility of coexistence of (a) 'genuine democratic' organization and behaviour (with uninominal vote for central and local-regional representatives) and (b) neo-patrimonial democratic organization and behaviour Romanian neo-patrimonialism thus involves particular features of this democratic coexistence and 'pure' democratic mechanisms with neo-patrimonial type of behaviour and political domination. The initial hypothesis can thus be reformulated by directly referring to the type of vote: *"The more the rules and mechanisms for formal organization of the Romanian political system evolve towards an uninominal logic, the probability of local-regional personalization of political power is greater."* Romania's

political experience shows that any personalized political power will tend to establish a local clientele for the sake of its preservation. What is new in the equation of political power in the neo-patrimonial state as resulted from the Romanian case is that does not evolve from a 'mix of political power', as in the African case, between formal democracy, with questionable rules and manorial behaviour.

On the contrary: the neo-patrimonial Romanian regime is determined by the most genuine formal procedure in giving authority to the democratic political power - the uninominal vote system: "(...) *the neo-patrimonial state* is therefore a political construction of contemporary Romania, a result of formal democracy and of apparent local democratization processes - apparent political participation, apparent legitimacy of local political elites, abuses while using power non sanctioned by the law, executive power in one man's hand, given his authority based on popular vote, creating the legal conditions that can democratically legitimate The local Sovereign (County Council President, Mayor) to use state's expertise - local/county secretary that one can control, etc." [21].

8. Romanian electoral law 2008-2012

For a seat in local election during 2008-2012, Law no. 67/2004 for local authorities' election, republished in the Official Gazette, Part I, no. 333 in May 17, 2007, had a crucial contribution in creating a neo-patrimonial state in Romania, establishing a State sovereign power partition in 41 sub-administrative units.

The originality of this electoral law is transforming the PCJ from a party chosen candidate into a 'people's choice' in one of the 41 Romanian counties by uninominal vote in one lap. We are dealing with a change of legitimacy in a case where research interviews and focus groups with county councillors, mayors, local councillors and secretaries of local governments asserted that they were working with law that allowed office abuse and arbitrary behaviour in public resources allocation within the county. The new PCJ elected through an uninominal system is likely to become a kind of *land-lord districtual*, given the authority of uninominal vote, while the officer is the only one able to make state budget distribution of resources. According to the new legislation, in 2008 we have the following electoral innovations that will increase PCJ's power. Article 95. – "Elections for councilors, mayors and presidents of county councils are valid regardless of the number of voters who vote." Following Article 97 a new one appears Article 971, as follows: "Article 971. - (1) For the county council president, votes centralization belongs to the county constituency. (2) The candidate elected president of the county council will be named the one that has obtained the largest number of votes cast in the first round." PCJ's power as the only officer with money attribution in the county is thus legitimated through uninominal vote.

In the case of 2012-2016 terms of office, the Romanian lawgiver changes another element of the electoral law, the mayor becomes an one round elected local government: that will preserve the local elected authorities considering that the majority of them are authorities who set the elections. The law 129/2011 amending Law 67/2004 for the election of local authorities published in Official Gazette 444 of 24 June 2011 changes the uninominal type of vote, from two laps to one lap for all the mayoral election: “The candidate becomes mayor if he had the highest number of votes cast in the first round.” In case of a ballottage within two weeks a new ballot will take place which will include only candidates who are in this situation. “2. Article 98 - In case of a tie score of two candidates for the mayor office, and one of them dies, gives up or does not meet the conditions stipulated by law in order to be elected, there will not be further elections, the constituency will name the other candidate as mayor.” This law was adopted by the Romanian Parliament, according to art. 75 and Art. 76 para. (1) of the Romanian Constitution, republished; <http://www.model-de.ro/Legea+129+2011+legea+alegerilor+locale+2012-p18-457.htm>.

The trend already announced by some political scientists is that of keeping the same structure in office for Mayor and the PCJ seats won with uninominal system vote in 2008, when the position of the local, county and state administration was characterized by oligarchy and connection of public decision with private or group interest. The field research conducted in Romania’s unit regions in 2009, showed that, according to local and county councillors, power given to CJ Presidents is too high – as they suggest projects and in absence of an independent view from political party or group interest, the county councillors work just as a ‘voting machine’ in CJ. For example, this can lead to a subjective type of power with such situations where the ‘President of CJ does not sign any decision regarding distribution of funds to a number of joint county because this decision does not match the political criteria’.

A member of the Cluj County Council says: “(...) To be clear, I say that generally the County Council President and Vice President along with the mayor and vice mayor are those who established broadly about everything. Decision is taken by two to three people, instead of being taken by the board (county or local - n.ns.). (...) I challenge the idea that two three people can make a county or localities policy. They can do it but I am not sure if they have the right view and they know what to do. It's where personal interests, party interests are prior in adopting these strategies. Decisions (local and county councils - n.ns.) are initiated by the president, mayor, and less by councillor or a committee (...)”.

[21, p. 217-218]

The 2008-2012 term for Parliament’s representatives is also the result of a voting system change that turns the list vote system into an uninominal voting system, modifying only the voting procedure and not the rule on which parliamentary seats are distributed.

The parliament therefore accepted on March 4, 2008 a law that decided upon one lap uninominal electoral system, with proportional seat distribution [22].

The new system for electing the Parliament's members produces a fragmentation of political power within the party system, excluding parties from selecting the candidates for the Romanian Parliament. The new parliament will be elected, as the result of their election campaign, that will allow a self-centred behaviour in relation with his party, both locally and centrally. Parties as political institutions lose their prestige and importance when it comes to distribution of parliamentary power, each newly elected Parliament member can then come with their own agenda of interest for different groups, related to campaign financing and group interest very difficult to identify, follow and manage. This means that the Romanian Parliament is made up of MPs and an equal number of local networks and local clientele resulted from financing the campaign.

Thus, during 2008-2012 some changes can be identified: (1) the sources of legitimacy for parliament members and the PCJ, the uninominal vote system can lead towards creating local networks of interest as well as funding for election campaigns and to reach access in managing public, (2) two-round uninominal vote has been replaced with one round uninominal system for mayor elections, which will result in keeping the actual power structure of local government, taking into account that mayors will set the local elections. Judging the Romanian democracy during 2008-2012, it 'slips' from a list system and two-round uninominal vote towards the uninominal voting system – a genuine creation of contemporary democracies. The problem we want to express in our analysis refers to the unexpected effects of such developments: instead of promoting democracy, the uninominal vote system has assisted clientelism and emergence of essential features specific to a neo-patrimonial state, the informal decision system works in parallel with rules and mechanisms of formal democracy.

Two logics of power and legitimacy penetrate each other, informal logic using the legal bureaucratic logic of state institutions both locally and county level. This without having neo-patrimonialism and its associated behaviour in control of all aspects and dimensions of the political regime. Romanian neo-patrimonialism shares that essential feature of combining types of domination – formal - bureaucratic and private - clientelist, which defines the neo-patrimonialist logic: „Elements of patrimonial and legal-rational bureaucratic domination penetrate each other. The distinction between the private and the public sphere formally exists, but in the social and political practice it is often not observed. Thus, two role systems or logics coexist, the patrimonial of personal relations and the bureaucratic of impersonal legal-rational relations. The patrimonial system penetrates the legal-rational system and affects its logic and output, but does not take exclusive control over the legal-rational logic. Ideally people have a certain degree of choice as to which logic they want to employ to achieve their goals and realise their interests best.” [19]

9. Conclusions

Changes in the Romanian electoral system (2008-2012) determine unexpected effects Romania's state administration. The PCJ and the mayor are in 2012 local- regional authorities that keep their local power centres authorised in one round uninominal vote, which means a maximum for their authority in the Romanian state. Research on local county councillors and local secretary in 2009 proposes conclusions and data supporting the existence of a strong PCJ, meaning a high potential for abuse of democratic rules in distribution of county resources. The electoral law creates, true-county local fiefs in which the exercise of private domination has a maximum legitimacy given by uninominal vote system.

“State power in Romania (Parliament, Government) tends to be a prisoner of the local power, in a feudal - neo-patrimonial model. Such local power that can act on subjective interest apparently limited on legal terms, leads to the subordination of political parties, of local government institutions to group interest that becomes the very core of Romanian state sovereignty.

President of the County Council decides whether distributes public finances to a mayor or to another, causing subjective relationships hard to punish on legal terms, since any of the county mayors may be in need of public finance from Government to County Council, and from the latter to municipalities. Creating so real local and regional fiefs, where the activity of public authorities and parties can both be simple tags for County Council President and for The Mayors individual power.

The local Power held in the hands of President of CJ and Mayors, will be kept by creating domino effect chain, being able to justify and legitimize their actions by amending national legislation. For this reason, there is a great deal of laws and regulations that stifles political power and limit central decision makers and regulatory or investigation institutions. This situation makes impossible to prove corruption in Romania. Although everyone can notice it, it can not be explained and sanctioned on legal criteria. All crusades against corruption encountered those network of interests created between political parties, local rulers and administration. The local and county interest network is required to permanently change the laws, depending on particular issues.” [21, p. 236]

A report commissioned by the Parliamentary Control Committee of SRI to Romanian secret services highlighted not only a diagnosis for the history of state power in the last four years, but also a conclusion with predictive value, on the new changes in 2012 regarding election for local and central offices. This is one of the toughest assessments of the Romanian political system in terms of its relations with the characteristics of neo-patrimonialism.

After a four-year history of Romanian neo-patrimonialism, chairman of the parliamentary control of SRI, Cezar Preda, finds that the present electoral law is ‘criminal for Romania’, its present form is a threat for the civil society, no matter how small or large its importance would be until the 2012 the electoral law. The uninominal vote system, created a sort of meta-democratic procedure

that allowed the underworld to enter Romanian political high-level key roles in Parliament and are elected for national or local communities, becoming so simple gifts for certain personage that have parents with money and influence, that control the Romanian political environment. “I wanted to have a very clear analysis of the underworld penetration in the Romanian political space and its evolution from just using politicians to the point where they achieve their goal. They overpassed this in 2004 and began to enter as local or county councillors and in 2008 exceeded the barrier and entered directly in politics saying to themselves: ‘What do I need a politician for when I can use my money in order do politics myself’”.

The Romanian parliamentary leader - at the time member of the ruling party shows that in Romania we have an ever changing voting system that allows adverse effects of this plebiscite procedure. Romania’s spoiled youth stopped receiving expensive gifts like Jaguar, Porsche, Bentley. They will receive from their parents’ gifts such as parliamentary seats. This is what you receive at 23 years, whether you're a girl, or a boy – “Come here son, here is a place in Parliament. There is no problem for me to spend one million euros to make my daughter or my son, who just graduated college, a member of parliament? These behaviour will be continued. It happened in 2008, we have cases. It will happen in 2012 in a greater degree, if we will not change the law, in case we won’t allow the civil society to have something to say. (...)” [<http://www.romanialibera.ro/actualitate/politica/cezar-preda-legea-electoral-e-criminala-pentru-romania-lumea-interlopa-a-intrat-in-politica-258965.html>]

Romanian electoral system, despite the democratic objective represented by uninominal vote seems to turn into private the Romanian state sovereignty. Inalienable and indivisible in its content, State sovereignty began to crumble into local feudal sovereignty. In this case the local governors legitimated by the uninominal vote can use their offices for private or group interest. The power that the electoral and public administration legislation attached to the elected candidates emphasize the patrimonial type of political culture (patriarchal culture) open to such clientelist relationships. The signals given by the Romanian secret services, the civil society or media on this kind of plebiscite vote, with destroying effect, that creates clientelist political regimes, appear to be ignored by Romanian governors. The Romanian secret service submitted a proposal for increasing the role of the civil society, that examined the effect of the electoral legislation using different means and information from our starting hypothesis: The more state representatives in Romania are elected through uninominal vote, the greater chances to have mechanisms and behaviour specific to a neo-patrimonial state.

Paradoxically the logic of universal suffrage extension does not correlate in the Romanian case (2008-2012) with any variable related to democratization, as expected, but with the logic of a neo-patrimonialist state.

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