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# CITIZENSHIP AND TOTEMISM. A CASE STUDY OF ROMANIAN CITIZENSHIP IN THE FIRST HALF OF THE XIX-<sup>TH</sup> CENTURY

Case  
study

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## Keywords

First half of the XIX-th century,  
Citizenship,  
Totemism,  
United Principalities.

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## JEL Classification

Y80

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## Abstract

*Talking about totemism in the XIX-th century is, in itself, a daring and original academic endeavor, since this type of social organization is still considered specific to primitive communities. Due to the studying at the same time of the structure and the essential elements that compound the totemic system and the study of citizenship/nationalism as a specific way of hierarchically organize the society of the XIX-th century states, a series of similarities arouse. So, I wandered if not in fact one can see and reevaluate the totemic system from the point of view of an archetype of human social organization.*

*I aim to show that there are sufficient arguments to reconsider and rethink totemism and also the concept/institution of citizenship, beginning with the first half of the XIX-th century, in Romanian Principalities. From my point of view, gaining acceptance and understanding on this particular subject will improve the overall perspective on human evolution in time and finally to identify new ways of understanding and dealing with the current issues we face today.*

Having a background in legal studies, I come into the research field of history with what I think may be an additional insight into the understanding of the different historical issues, mostly those concerning the relation between law and society and their imbedded evolution. So, it is only a natural preoccupation to identify and analyze different patterns, different frames in which a certain rule of law or juridical institution appeared and evolved. The first results of my research on citizenship brought up the fact that the key to unlock the true meaning of it doesn't lie only in the studying of the legal aspects, but also of the social and political ones. At its core citizenship, in general, has all to do with a social establishment, a social order, mainly because it encompasses the idea of group identity and of feelings of appurtenance and solidarity and thus the legal rules that aimed to regulate it developed in close relationship with these realities. Romanian citizenship, in particular, has organized itself as a social reality around a supplementary element of religious nature for whose existence we don't have to search too deep because it is obvious and transpires through every act and word related to the institution of citizenship.

More recent studies on the juridical system, using a psychoanalytic approach and having as starting points the works of Pierre Legendre, Peter Goodrich, David Caudill, succeeded to emphasize the manifestation of social unconscious and its influence on social organization around taboos and totems and from there on into the legal norms that regulated property, women status, social conduct and established a strict hierarchy among the legal actors and the architecture of court houses. Arriving at this point with my research, I felt the need to deepen my understanding on these things so I have studied the works of those whom I considered to be the most relevant to my interest, among which there are James George Frazer on totemism, Sigmund Freud on taboos and totems, Marcel Mauss for his anthropological perspective on prehistoric law, Alain Supiot and Romulus Vulc nescu for studies of social law. For my subject of interest, citizenship, I have concentrated my efforts onto the legal acts and codes issued in the first half of the XIX-th century in the Romanian Principalities and sometimes from a later period, up to 1866, the moment of first Romanian Constitution when United Principalities took the name of Romania. The explanation for going a little further than the exact half of the century lies in the fact that civil regulations concerning citizenship remained applicable until 1865 when the new Civil Code of Cuza entered into force. I have limited myself to them because if the idea that the law has evolved in accordance with the social customs then it would be interesting to take the

road back and start uncovering the historical realities starting from the contents of the legal rules. Also, it must be said the cited references are only of those works most at hand at the moment and not represent the entire bibliographical material used for the paper; sometimes the same idea or information can be found in more than one work.

Reading Sir Frazer's *Les origins de la famille et du clan* I gained the insight that totemism is a kind of social system which regulates the life of a tribe and divides it into clans (divisions) in which its members believe that they are united through a certain family relation and a common veneration of a natural species, may it be a plant, an animal or some mythological creature. Furthermore, people from the totemic societies feel that they are somehow bound to the totem and so they have to follow a specific behavior towards it. The nature of this behavior, weather of closeness (eating it) or distance (not eating it, not harming it in any way) (Sir James George Frazer, 1922, pp. 15-16) is important in the respect that the last attitude corresponds to the more evolved communities and this is one of those traits that will be found also into the analysis of citizenship and nation of the XIX-th century. The citizen will be asked to manifest respect towards the insignia of the state and of the nation, namely flags, emblems, institutions and to bring their contribution to the growth of the nation.

Studying citizenship as a legal and social institution in the time frame already mentioned I saw it worked as a way of establishing a sort of social hierarchy. The works of Dominique Schnapper, Gilles Ferréol and Andreas Wimmer, were of great help since they marched on the same idea and gave a lot of logical and historical arguments for it. Moreover, acceding to a place in the totemic community or in the citizens' community, one should undergo a certain procedure or a certain juridical process with ritualistic characteristics, as in the case of citizenship, with magical or religious implications sprung from that unconscious so tied to a sacred realm that transcended the material world yet so present in every aspect of the social, political and juridical life. Mauss brings wonderful arguments in this direction in his work, *Sociology and anthropology*, when studying the prehistoric Roman law. His reasoning is clear and it can be applied to any legal institution and also can be put on the same larger research path of Legendre, Goodrich and so on.

This is how the first and most important question popped up into my mind, did we actually overcome, in the XIX-th century, the archaic social structure and the correspondent law or we remained stuck in the same pattern of things and the only difference it is actually a fiction, an effect of natural evolution of men hidden in nuances but not

in real ruptures from the past. John Ferguson McLennan's assumption (1869) that many of our old or modern habits and customs should be understood as vestiges of a totemic era (Sigmund Freud, 1996, p.18) gave me the proper impulse to follow my instinct and deepen a research on this exact segment. Though contested on some of his ideas by Durkheim, Lennan's work can still be reconsidered and used. At this point I must say I detach myself from any pretence that this case study is a real theory, I would say it is rather a quest, an endeavor to extend some settled conclusions from different areas of research to my own, concerning Romanian citizenship in the first half of the XIX-th century and hope the results will encourage me to further into this specific direction. Further, due to the limited space I will not present the full argumentation or the detailed evolution of the basic elements of interest.

Given the above information, presented so briefly to you, I have decided to make a comparative study between **totemism** and **citizenship** looking at them from the same perspective, **as systems of social organization built on the same three poles: group identity, ritual (magic, religion) and feeling of belonging.** Of course, due to the fact that totemism is something characteristic to the primitive societies and citizenship to the more advanced ones, there aren't perfect similarities but only resemblances and indicators of the same pattern, not of realities, nor even of motivation, some of them being lost and then rediscovered and reshaped. Also, for the present case of study I considered of no particular relevance the debates along the origins of totemism and just stick to the idea that this system based on totems was and is a historical reality whose basic structure of greatest importance for my paper.

Philosophically speaking a man can consider himself a citizen of the world, but the more material reality obligates such a person to enter into a social organization in order to benefit from a normal life that supposes a personal and a social identity, appurtenance at some group, creating and keeping relationships with his fellow men because if not he will end up in one of the two situations Nietzsche attributes to such a man, being either a beast either a supra-man. "Nobody is a citizen of the world we all are French citizens, American citizens, Japanese citizens ..." (Alain Dieckhoff, 2003, p. 61), in other words man as an individual and men organized as a community requires a **social identity**. Such a matter is known by men since the dawn of time, known instinctively or rationally is of less importance, hence apparition of names and of the act of naming. Names just as totems are symbols which help man to put order into the surroundings in which he lives and into the relationships he creates with the living creatures next to him, human, animal or of other nature. But

the uttering of names or of totems has a stronger meaning and impact because through this gesture a lot of important information is disclosed, social status, family relationship, personal traits. (Marcel Mauss, 1999, pp. 338-339). We find similar behavior in the society of citizens. During the feverish year 1848, when the Romanian revolution unfolded, most of the speeches addressed to the people by C. A. Rosetti started with the appellation "Citizens!" alongside more familiar and personal words like "brothers" or "Romanians" or word associations such as "Justice. Brotherhood" (Central University Library "Mihai Eminescu", Iasi, *Documents No. 213* and *No. 214*). Actually, researchers observed that starting this period of time words and images took a more important role in the political and social process of awaking the latent forces of the nation becoming a vital way of conveying the unification message. Figure 1 is relevant in this sense.

Therefore, totems served as a way of recognizing individuals, families, tribes, clans and so on. Members of a certain clan-totem wear the totem as a sign of distinction and in special occasions – birth, initiation, marriage – a more profound connection with it is revealed and confirmed through special gestures and words. Also, the researchers identified a hierarchy between the clans and also in the smaller divisions inside it (tribes) that helped the community to assure for itself a longer and more stable course of life. Even more so, it is demonstrated that clans cooperated and were united in such a way that they understood the need of subordinating the individual interest to the general one and that the totemic bond is even stronger than the blood tie. A feeling of collective responsibility and solidarity penetrates the totemic clan (Frazer, 1922, p. 43) and, I might say, of order, hence the unique totem every clan had established for themselves. Proof of this reality can be tracked with the help of archeologists in almost every community by observing their culture, their exterior manifestation, such as body paintings, clothes, jewelry, pottery and weapons that all bear the totem, the distinct mark of that social group, as seen in Figure 2. Some scholars affirm that even the palaeolithic carvings and paintings may have had totemic significance. (Carveth Read, 2014, p. 227).

From this point of view I consider the many and different coat of arms that were used to give a distinct social status to a family, to distinguish a city or to "baptize" a nation-state are in fact a more modern manifestation of totemism. A continuity of this custom can also be seen in the use of symbols on shields and other military equipments, including uniforms that bore the symbolic figure of the state of appurtenance and thus giving legitimacy and a feeling of empowerment to the bearer. If the reporting of

people to the totem varies from the opinion that they are its parents to that that they are its descendents and always under the feeling that belonging to the totem group offers some kind of protection. In the case of citizenship, to fully understand the connection we have to go a little back in time to the moment when modern ideas of nation and national state were first theorized. Undeniably, man thinking and reasoning has evolved throughout the centuries and the understanding of the world, of the man's place in the universe and in his importance in the more immediate world, the community. Man's instinct of protection and its correlative emotion, the need for security, suffered dramatic changes, both have deepened in two directions, a vertical one so, he became more aware of himself and the individual in general and an horizontal one, which encompassed more than his family and immediate social surroundings up to encircling into his obligations of protection a community of peers, of citizens. This new society, based on citizenship or on the idea of nation and of common origins, has been the new source of legitimacy and empowerment, of the feeling of solidarity and responsibility toward the Motherland or the Ancient Fathers and gave birth to a more complex series of symbols and of identity markers. Nonetheless, because we talk about the XIX-th century, a period of time with many oddities and changes, we should not fall into the trap of thinking that everyone just raised their hearts and met together for the making of a desired and historical project; or that this national project was done at a shelter from the foreign powers and their influences (I. C. Filitti, 1914, pp. 1003-1005). In this regard the modern civic society differs very much of the more primitive ones, or we think this way because we have more proof to sustain that in regard with the first one and less for the second one.

A distinction between citizenship and nation must be very well done, while the status of citizen gives the men the feeling of belonging and of safety, knowing that not only he will protect others but others will protect him too, the nation which is more related to the idea of state and motherland and not of the individual is the one giving the fundamental legitimacy and the ground on which all prerogatives born out of citizenship will be ensured with full liberty to manifest and express; the national state has obligations toward the citizen-individual and must fulfill them in order to ensure his loyalty. In order to do so it gives the citizen-individual different symbols of appurtenance and makes possible for him the exercise of a greater variety of rights through comparison to a foreigner. The question if the Romanian people of that time understood things in terms of responsibility and hierarchy of interest, those of the nation being above the personal one,

can be answered yes and it can be sustained with a great number of historical information. To cite but one, an excerpt from one of Barbu Catargiu's speeches in the session of General Assembly on the 21<sup>st</sup> of March 1862, while the Press Law was discussed, "Please, sirs, warm up your Romanian hearts, animate your hearts with patriotism (...) let aside your own person and preoccupy yourselves with the greater person, with Motherland". (Iulian Oncescu, 2011, pp. 317-318).

If we analyze the elements that compound the emblems of United Principalities after 1859 we can see that they translate into images a part of the Romanians' history, a descent from a powerful lineage. For example, the eagle stands for the Romanian Wallachia and the Roman origins of the Romanian people and the bull for Moldavia, for unity, as it can be observed in Figure 3. Other symbols like the sword or the scepter, the sun or the moon, appear on different emblems or flags as an expression of power, kinship or source of power. In the same time, we can see that even different state institutions, have their own emblem (Figure 4) like clans in a tribe, but in a clearer connection with the principal emblem, that of the state/nation. (Laurențiu- tefan Szemkovics, 2014, pp. 65-78) As in the case of totems this identity, this national marker has its origins in the system of feeling of belongings and in its magical naturally derived from the same type of conviction that the totem or the nation are in themselves a greater force that transcends the limits of the individual. Unlike the primitive symbolism, the modern one is itself regulated and confirmed as a identity marker first through the influence and Church and religion (the Church kept responsibilities regarding state archives, legal acts for civil status etc.) and after laicization through the administrative and civil laws. We can find the historical confirmation of this fact when we read the Paris Convention for the organization of United Principalities, article 46 states that the army of both principalities will keep their present flags, but in the future these flags will also bear a blue band (Ioan M. Bujoreanu, 1873, p. 10). Other stipulation can be found in Princely High Orders issues in this period of time with the exact purpose of regulating the flags and coats of arms of different military units.

In any given type of community, totemic or more modern, when a stranger wants to become a part of it, he must undergo a certain **process, ritual** established by the community. For the primitive societies the common procedure assumes some physical trial and/or some tests with magical appearance, while in the more evolved ones things have a more complex route. Primitive initiation rites (Figure 5) also imply the idea of entering into the community because young males/females weren't considered as full members until the completion of these rites, just like in the case of

citizenship where only when one would be of age would receive his full civil and political capacity. Regarding our community of citizens, in the first half of the XIX-th century, we observe that the process of entering the community developed into a more complex ritual with elements of different nature, juridical – there a clear rules to be applied, moral – a specific attitude towards the mother-country, spiritual – to belong to a certain religion or to embrace it. In the case of United Principalities, the procedure would start with a petition addressed the Lord and afterward The Public Ordinary Assembly, later on to other authorities, such as State Council (Nicolae Iorga, 1914, p. 200), would conduct an inquiry to verify the truthfulness of the information and of papers presented in support of the petition. If all conditions were met by the petitioner than a decree or diploma of naturalization would be issued in accordance with the majority and in the end signed by the Lord. If we really want to see into the significance of this entire process we should look into the deeper meaning of the idea of decree or diploma. This was no ordinary legal paper, it was a diploma or as we might say a coronation, a recognition of some extraordinary facts, of some special merits. We should not forget that the process lasted for almost a decade that continuous proofs of faithfulness to the motherland were asked and that by the end of the trail period if the individual would not give sufficient evidence of his attachment his petition could be refused. The older idea of the decree is even harsher in meaning since it is barred by the cultural or educational meaning of the diploma, implying by its juridical and political nature something more serious and strict. Documents from that time, when read and analyzed at linguistic level confirm the above assertion.

For example, in a Decree from June 1848, concerning the petition of Enric Vinterhalder, issued by the Provisional Government, we find the following beginning, “*Justice – Brotherhood in the name of Romanian people*”, element that lets us know that such a decision is done in accordance with the will of all Romanians (Barbu B. Berceanu, 1999, p. 270). If we think that Romanian legislation doesn't admit the possibility to grant citizenship within collective petitions, but only in individual cases, we can better understand the importance of this act. Maybe the centuries of foreign domination left more than one mark in the collective soul Romanians that lead to unconsciously legislate a series of restrictions meant to keep the foreigner, “the enemy” at “the gates” of the community. Another more practical explanation is that concerning the national interest and integrity, the religious element bearing a political symbolism, that of internal autonomy. Coming back to the Decree mentioned above, the motivation it contains is relevant and I will reproduce it here, “*Because*

*Mr. Enric Vinterhalder has lived on Romanian land for nineteen years now, because through his conduct in all this time he knew how to earn the respect and love of every Romanian, because through the knowledge he has on Romanian language, through his poetry full of sweetness and of a real love for Romania, even through his powerful help and sacrifice that he has done for Romania and for the success of our revolution he proved that he is one of the warmest and truest sons of Romania*”. This is an example of what it was called “the proof of Romanian feelings and moral” (Iorga, 1914, p. 201). To further emphasize the importance of citizenship, not only for the Romanian political project of building a national modern state of law, but also simply for the state powers and their legitimacy we should take into consideration that this was a Provisory Government and the act of issuing a diploma of naturalization was a proof of power and national confirmation of it.

It is true the observation that this is a very passionate motivation, but it is in the end another argument in favor of the opinion stated above, that granting citizenship was of great importance. Researching the content of other similar acts but from a later period, starting with 1880, we can observe a decrease in the warmth of the discourse as a sign of a process that gradually becomes more common, more ordinary. The same process of dilution can be traced in regard with totemism as a social system though small totemic communities exist even today.

What is somewhat particular in the Romanian citizenship case, but not unique since we can find the same trait at other countries from South-Eastern Europe, is the fact that we find here the **religious element**; even though in the first half of the century we see it working as an element of cohesion for the society, like the **magical element** in the totemic communities, we also see it in a stronger position in the structure of society and from this position acting like an element of permanent exclusion of the foreigners. In short, in the totemic societies the magical element is a presence in the day-by-day life, the primitive men lives in a world dominated by superstition and fear where magic is seen either as an instrument to invoke and receive protection (Figure 6), to ensure food for the community through multiplication rituals or to control the forces of nature in the behalf of fellow clansmen. Even the names and the act of naming things or human itself are considered to be magical. Rituals include dancing, invocations and different kind of ceremonies, some practiced regularly to ensure the unity of the community. The presence of prayers and of heroes, on the other hand, is a sign of a more developed society that has already engaged itself on a road of progress from magic to religion.

As I mentioned already in the introduction, in Romanian case citizenship is conditioned by the appurtenance to one of the Christian religions, preferably Orthodoxy (Keith Hitchens, 2002, p.109). I will come back later on this particular idea. Of no less importance is the historical fact that at that time existed discriminatory tendencies between the different Christian religions because it shown to what extinct this problem has gone in those times. Armenians and Catholics were subject of such discrimination as we can very well see when reading the many Parliamentary or Assembly debates, for example during the 12 November 1857 session when it was in question weather to give or not political rights to all the country's inhabitants. (Mihail Kog Iniceanu, 1959, pp. 28-45). The moment is not to be neglected, 1857 is the year when the Romanian Principalities where summoned to present their wishes on the future political organization. Also, we should not neglect the reasons for such a passionate discrimination and pass over it without briefly showing its source. One of best historical resource is that of the many firmans or letters of permission issued by the Ottoman Sultan on different occasions. Such a firman, addressed to Lord Ioan Sandu Sturdza, in 1822 reveals the causes of the above mentioned discrimination and locates it in the Phanariot period when Greeks and Armenians abused the Romanians by using their political, commercial and religious positions. The firman says that all these people of Armenian or Greek origin to pass to Rumelia province and leave the Principalities. Exceptions were allowed and the power over them was given to the native people who could choose to whom to give a kind of guarantee that they are honest people and can be allowed to continue living there. (Dimitrie A. Sturdza, 1888, pp. 302-306).

We don't find such a restriction in Western European countries, like France that has a more universal understanding and application of the rule of law regarding citizenship; maybe because of their international status as empires and not as countries struggling for independence and international recognition of their individual-national being; maybe due to the fact that those societies tried so hard to detach themselves from the religious influence exerted by the Church, we should not forget that after all the Western society of the XIX-th century is extremely rational and individualistic and searches a state of freedom from the traditional authorities, the King and the Church.

But the social phenomena of totemism didn't just guided the evolution of the magical element, also it suffered a reversed influence when some religions, if not all of them, become sources of totems. It is the case of Christianity too, where we find the lamb as a totemic animal, the crucifix, the Holy Water or the name of the Lord as amulets,

as symbols of protection or, sometimes, as omens when they appeared as images in a dream or in nature on a tree or an animal. More sophisticated uses of protective character of religion can be found in the idea that the Romanian nation and on consequence Romanian citizenship is a reality to whose creation religion gave all her powers, all her weapons. Statements like the one of Boerescu, "Romanians' Union (...) is done through the use of moral powers, spiritual weapons" (Oncescu, 2001, p. 300) are very common mostly after 1848.

Also, the use of these symbols served as a way of establishing a social identity and a distinction in the more cosmopolitan societies of some cities like Iasi, Bucharest or Braila. Moreover, the Christian religions abound in rituals and processions done at regular time intervals and on specific occasions for the purposes of celebrating and of symbolically restoring the primordial unity; other rituals are done in extraordinary situations either for blessing some important acts, either for protection. One such moment is the burning of Organic Regulations (fundamental law of organization of Romanian Principalities) and of the Almanac of the nobility at the year of revolution, 1848, with the participation of higher religious figures. It was an act of symbolic liberation from the oppression of old authorities that proven themselves up to that moment as enemies of the people and friends of the impelling foreign powers. As we can see in Figure 7, a painting presenting the historical moment in an allegoric manner. The Almanac of nobility is personified, has the head of a fox, symbol of wickedness and treachery and from this status it is not burned, it is hanged. Next to this character there are people holding flags on which one can read: Liberty, Brotherhood, Justice.

The totemism of Christianity extended itself onto its members thus onto the Romanian citizens and this why we have restriction regarding marriage with foreigners of other religion. In fact, this kind of prohibitions is largely spread throughout the world and can be found in any religious texts, mostly known at Israelites and Muslims. Once again we assist the power of religion that seems to be a totem in itself, hence it needs to be protected and kept alive because it is not only the main element of cohesion, the vital force of the society, but in the same time it is an intimate part of the inner being of every individual. Although it is true that such a manifestation of religious totemism is not due to the new existence of individual as citizen he nonetheless inherits it. Articles 80 and 91 from the Calimach Code (1818) state the interdiction of marriage between a foreigner and a native, between a Christian and a non-Christian. Also, the next articles stipulate a series of interdiction regarding the marriage between members of the same family up to the 8<sup>th</sup>

spoke. This last prohibition will be kept by the Romanian legislator through all the period of time we are concern of and it can be found also in the Civil Code from 1865, articles 127-150, but in a more relaxed form, maintaining the interdiction only up to the 4<sup>th</sup> spoke. From the reading and interpretation of the juridical norms concerning marriage and citizenship we can extract some ideas about the women's place in the society. Thus, the marriage with a noble woman can reduce the period of trial for citizenship from ten to seven years, if all other conditions are fulfilled, according to the Organic Regulations of Moldavia, Annex Letter X (Dumitru Vitcu (ed.) & Gabriel B d r u (ed.), 2004, pp. 566-567). But in the Civil Code from 1865 such a rule does not longer exist and it is "replaced" with another, contained in the 12<sup>th</sup> article, that if a foreign woman would marry a Romanian man then in effect of that she will be considered as of Romanian citizenship. Even though, as we can see, an express regulation concerning the marriage with a Romanian noble woman does no longer exist, the custom that gave birth to prior regulations was still kept and applied.

But this reality is completely different from that of a totemic society because our Romanian society applies the rule of endogamy whilst the totemic ones practice exogamy, the prohibition to intermarry between members of the same tribe or clan. Something else is interesting here, the fact that not even in these primitive communities these restrictions are not founded on the totemic rules but on sanitary reasons. The primitives seem to have anticipated the scientific fact that relationships between members of the same clan might lead to mutant results (Read, 2014, p. 225).

In the works of Frazer something else strikes and that is the affirmation that the totemic societies are characterized not only by totemism and magic but also by democracy (Frazer, 1922, p. 35). Well we can find democracy in the ancient history but after that it seems to be forgotten only to be rediscovered at the dawn of modernity. This is yet another aspect that brings the totemic system of social organization closer to the one based on the concepts of nation and citizenship. But a question arises, what is the common trait of this idea of democracy that can be found in both societies. The answer would be that it is related to the common people and not to the political or social elites that rule over the tribe, clan or the citizens; community and thus they gain a certain status that protects them against the arbitrary of their leaders and also a strong exterior foundation for their need of belonging, for their sentiment of appurtenance. Also, for the XIX-th century democracy can be translated with the help of two legal institution, rights and liberties.

In this context **the Law** becomes the guarantor of this state of things. Even though Alain Supiot in *Homo juridicus. Un eseu despre funcția antropologică a dreptului* says that the guarantor is the State (pp. 70-72). I would go further and say that the only thing that truly includes and in the same time transcends the divine power (religious or magical) and political authority (elites, later the state) is the Law. The simple idea of law is fundamental to any society no matter how advanced or on contrary of how primitive it may be. We have sacred laws that regulate the relationship with God and religious/ magical authorities, political and social laws that regulate the relationship with the state and between individuals; therefore the Law detaches itself from all the influences, though it encompasses all of them, and also becomes the supreme protector that gives shelter and limits the arbitrary exercise of any power or authority. But what is specific to citizens' society in United Principalities is the circumstance that the discriminatory element of religion asked for granting citizenship is "sanctified" by the great protector and guarantor of the society, the 1866 Constitution or by that matter of all the prior fundamental law that can be considered as fulfilling such a role. The 10<sup>th</sup> Article of the 1866 Constitution states that "Romanians are the only ones admissible in public, civil and military offices" (Bujoreanu, 1873, p. 13). Earlier laws like the Organic Regulation of Moldavia, legislated the access to offices in the following the same pattern. (Vitcu D., 2004, p. 559). Despite this reality, history also registers moments of increased toleration. Such a moment is the year 1852 when Grigore Ghica decided to apply the Recruitment Law to Israelites also (Iorga, 1914, p. 199). But what remains as a constant is the fact that legal tolerance fluctuated quite much in the first half of the century, many examples can be cited on one or other side (Condurachi, 1918, p. 23 and following).

The "apple of discord" was the political right, among which the most important were the electoral ones and the property (Andreas Wimmer, 2002, pp. 311-317).

In the totemic societies there were no laws in the modern sense of the word in exchange there were commandments and restrictions, taboos, meant to protect the totem but also the life of the community. The only tangible or visible punishments were death and banishment from the group, the other ones – disease, curse – were assumed in a causal connection to the deed. One of the most important taboos was the one related to rulers as they were seen as an extension of the totem, gifted with a great magical and secret force. This power made them dangerous hence they were kept isolated from the rest of the group. A certain code of behavior rules – not entering the house of the ruler, not touching it directly, not using his

objects – was instituted for the protection of the member of the clan. Some tragic events are accounted, the sudden death of a woman after she finds out she has eaten fruits from a taboo place or the sudden death of two men that used the Headman's flint to fire up their pipes. All these deaths have only one cause, pure fear and the belief that getting in touch directly or indirectly with the ruler is an act that leads to death (Freud, 1996, p. 55).

In the citizens' society of the XIX-th century the place of the Totem is taken by the Citizen, namely that individual that represents a free person with rights and liberties that is able to assume them and in the same time to assume obligations towards his fellow citizens and towards the nation and state. If scholars agree that the person of the lord, of the head of church and the judge are extensions of the totem and that every rule that exists has as a sole main purpose their protection and only secondary the protection of others that might find themselves in relation with them, things are not that debated in regard with the citizen.

In the first line of things we find the citizen obligated to follow a certain set of conduct rules towards the symbols of the state, respect for the emblems, insignia or flags, respect for institutions and their representatives. All the criminal codes contain punishments for any act of disrespect or of harming them. Penalties have a magical or religious implication in the totemic societies as in the modern ones, aspect very much studied by many scholars reason for which we won't insist on explaining it here. But in the second line of things we find in the modern period we talk about the occurrence of a change, through the legal system there are instituted penalties also for the authorities that would trespass the freedom, the liberty, property or wealth of the citizen. Now he becomes a totem himself and from this position he benefits from protection, now he has something from that mysterious force that only rulers had once, force that makes him stronger and shelters him from the possible abuses of one authority or other. Moreover, the death penalty is abolished and penalties for the abuse of clerks against the personal interest of citizen are instated. It is also true that such a reality didn't happen in a glance and rooted itself in time. The many regulations of criminal law, from the 1826 Penal Code in Moldavia and Criminal Book in Walachia to the Criminal Code from 1865 together with the one related to criminal procedure, all contain dispositions that are not directed only to the punishment of individuals that trespass the Law, but also related to their protection (Hamagiu C., 1903, p. 999 and following).

Without any doubt we can say that a certain resemblance between the totemic society

and the citizens' society exists. Words, symbols and images all convey messages that carry a social and political significance and are meant to (re)create a specific reality with its particularities depending on the time and space of reference. Social and individual identity remains a trait of the man in a society where he lives together with other people. Religion took magic's place, but didn't leave the scene, not even on political level. Nonetheless, some differences can also be identified, especially in the social relationships and the customs or legal norms that regulate it, the most important being that concerning marriage, exogamous in totemic societies and endogamous in the other one. Also, the power of Law, that transcends that of the Ruler of the Church, the laic and religious or magical authority, is yet another distinction.

We can even make prophecies about the past, if one can say such a thing, concerning the evolution of every structural element. Everything will evolve in a steady and firm rhythm to the XX-th century up to the moment of totalitarianism when we assist at a literal explosion of symbolism, allegories and mythology and a radical view on social identity. National will become nationalism and from there on xenophobia; the primary practical symbolism of totems will become something else, a symbolism related more or less to occult meanings and a darker rediscovery of the ancient past, all manifested into a continuous propaganda; religion will occupy a place in the international relations and will be once again the cause of many violent events.

#### Acknowledgment

This work was supported by the strategic grant POSDRU/159/1.5/S/133652, co-financed by the European Social Fund within the Sectorial Operational Program Human Resources Development 2007 – 2013

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Figure 1. 1848 Romanian Flag with the message “Justice. Brotherhood”  
<http://ro.wikipedia.org/wiki/Fi%C8%99ier:Tricolore1848.jpg>



Figure 2. Elder of Wollunqua totem group, Warramunga tribe  
<https://www.wordnik.com/words/Wollunqua>



Figure 3. 1859 Flag of Romania with the Eagle and the Bull  
[http://ro.wikipedia.org/wiki/Fi%C8%99ier:Princial\\_flag\\_of\\_United\\_Principalities\\_of\\_Romania.jpg](http://ro.wikipedia.org/wiki/Fi%C8%99ier:Princial_flag_of_United_Principalities_of_Romania.jpg)



Figure 4. 1859 Emblem of Giurgiu City Police  
[http://www.optimalmedia.ro/stire-dosare-istorice/matrice-sigilare-apar%C8%9Ainand-poli%C8%9Aiei-ora%C8%98ului-giurgiu-\(1859-1872\)-de-dr.-lauren%C8%9Biu-%C8%98tefan-s/7812](http://www.optimalmedia.ro/stire-dosare-istorice/matrice-sigilare-apar%C8%9Ainand-poli%C8%9Aiei-ora%C8%98ului-giurgiu-(1859-1872)-de-dr.-lauren%C8%9Biu-%C8%98tefan-s/7812)



Figure 5. Fire ritual of initiation. Aboriginal ceremony

[http://driverlayer.com/showimg?v=g&img=http://www.webpages.uidaho.edu/~rfrey/images/220/Passage/ABFire-Ceremony.jpg&org=http://www.webpages.uidaho.edu/~rfrey/220aboriginal\\_passage.htm](http://driverlayer.com/showimg?v=g&img=http://www.webpages.uidaho.edu/~rfrey/images/220/Passage/ABFire-Ceremony.jpg&org=http://www.webpages.uidaho.edu/~rfrey/220aboriginal_passage.htm)



Figure 6. Totem ceremony. Wollunqua totem group, Warramunga tribe.  
<https://www.wordnik.com/words/Wollunqua>



Figure 7. Hanging of Almanac of nobility personified as a man with fox head

<http://www.zf.ro/ziarul-de-duminica/c-a-rosetti-contemporanul-etern-ii-de-emanuel-badescu-11292940>

