

Why Albania is in a Continuous Struggle to Fulfill European Union Preconditions Toward Membership? (Focus on Lack of Property Rights)

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Abstract

The Albanian communist legacy has left a significant impact in building a democratic state. Twenty five years have passed since the change of regime, but transition phase toward consolidation and democratization still seems to be unreached and unfulfilled. Even we are geographically part of Europe, we struggling from years to achieve successful reforms in economy, politics and in law. There are five major pre conditions that European Union considers as priorities for Albania to fulfill. Property rights are one of them and it will be a focus of this research. Main objectives studied regarding this article are as follow: 1. Political culture. 2. Political parties. 3. Property administrations efficiency. By analyzing the up mentioned objectives, emphasizing negative externalities of communism, political factors during the transitional period I will try to give an explanation on why there is a real challenge for Albania to pass to the consolidation phase toward a real European democratization. Fulfilling the European criteria is a mutual challenge for Albanian government to improve the quality of people life as well as for Europe itself as the leading institution to support and guide young democracies in making them inner part of the Union. Reforms must be of European standards, effective and with positive outputs. In order to achieve successful reforms, there should be a better collaboration between opposition and the government, to be shown a mature and good political will, to work reasonably and responsibly for a better future for its citizens.

"One of the things that everyone knows, but no one can quite think how to demonstrate is that a country's politics reflect the design of its culture" Clifford Geertz

1. Introduction

One of the determinants of democracy is the rotation of power. The rotation of power has as a functional mechanism the sovereign. Due to the fact that the study involves democracy, then the "sovereign" of Hobbes is left behind and will concentrate at the Locke "sovereign" that is the liberal sovereign. (Leviathan: 2000). The sovereign- the people who make possible rotation by vote (Sovereign for one day) and the sovereign- authority that leads the policy and institutions to govern the country for the long term.

In democracy, the sovereign – the people delegate the state management to the sovereign – the state. This transfer of power through "trusteeship" from sovereign to sovereign is done within the context of human rights, creating a relationship of interdependence and of good will. Precisely, respect for human rights is the basic foundation of respect and of building a state and its consolidation. According to John Locke, issuance of personal rights, specifically the right to the enjoyment of personal property and the transfer of this right to the sovereign through the social contract, makes this right safer and better manageable.

Albania as a country in transition from 25 years still takes criticism through statements or publications on the process of irregular election / non-recognition of the results by the opposition, corrupt judiciary, and parliamentarians (representing the people) are incriminated, corrupt and incapable administrations and so forth. The 2013 parliamentary elections and 2015 local elections were rated as mostly fair election and that meet standards of democracy. (US report 2014)

This as a precondition for integration, but is not the only one. The European Union has set five preconditions that must be met in order for Albania to be considered for the status and join the European Union member states.

Prerequisites that Albania must meet in order to join the EU are as follows:

1. Continuity of implementing public administration reform
2. More actions for independence and efficiency of the Judiciary
3. Determination in the fight against corruption
4. More efforts in the fight against organized crime
5. Effective measures to strengthen the protection of human rights, Roma and implementation of property right

2. Political Culture

The problems and challenges that Albania has had to face are numerous and this because of the communist past and its effects.

Deficits of today are part and reflection of yesterday and of the weak political will of the present. Hypotheses analyzed in this study question the reasons why Albania is facing difficulties and is going through a relatively long transition towards the integration path. The precondition set by the European Union for strengthening and protection of property rights constitutes the basis of the research of this paper.

The absence or the disregard of the right to property is divided into three main variables such as:

1. Political Culture
2. Political Parties
3. Property administrations inefficiency

According to the philosopher George Berkeley privileged subject that creates knowledge and worldviews must be the state. If the state will not manage to impose its own way of looking at things then society would be in chaos. It is the state that should carry compact body of society, a phenomenon, which is best applied in our country and with the following features:

Living in a closed system, where every life activity, as political, social, cultural was dictated and controlled by the State for more than 50 years, formed a rigid civic mentality and humbled by abolishing any free initiative, because if anyone would have derived or expressed something out of the party line risked his life and family, as the countless examples of executions and political persecutions. The communist system left repercussions that were broadcasted in the democratic system as well.

Some of the variables that I consider important to mention are as follow:

1. The communist regime was a bad model to follow. As mentioned above, everything was well planned according the leader of the only Party and unfortunately the theory of the only party in the town continued during transition phase. The new political leaders were born, raised and trained from the old regime; therefore their leadership reflects the old political culture. (Fuga:2004)

According to "Gene Sharp" members of old regime may pretend that they have overcome the dictatorship, but all they can achieve is trying to put a mask to cover, because the core it's the same.

2. Albania inherited from the communist regime a social pledge as the war between classes. During communism there as a clear separation between classes. Taking into consideration statistics on this regard there were 8.500 executions and over 400.000 people captive in prisons and concentration camps. Historical memory is a gap that cannot be erased easily. Civil war, destruction of the Albanian intelligence, disappearance of her property and theft, usurpation of power by force, imprisonment of opposition, extrajudicial killings, persecution and exile- evictions.
 3. Continuity of the state- party model. In the communist regime, existed only the state and the only party was totally under the elite control, basically controlled by the leader, Enver Hoxha. Unfortunately, this model has still impact on the democratic regime and influenced all political administrations which will be analyzed deeply in the next section.
 4. The country inherited a demolished economy. A bankrupt heavy industry, a backward agricultural sector and a long bill with debt. Albania was the most backward and poorest country in Europe. Poverty was a direct consequence of bad management of capital, monetary and human resources for over 50 years. Development of economic policies based on ideology and party directives had created a big gap in the lack of recognition of status real needs and demands of citizens. Around the "90s, this situation had grown inevitably social tensions in the country.
 5. Besides inheriting divested institutions Albania inherited also a system with no values. In the previous regime individual values stopped existing due to repression and violence physical or physiological. The tendency to destroy owned public property turned into a concern. Society unveiled a constant hatred for everything that was public. The theft of state property was not considered immoral. Was justified and often instigated by the need to survive. The desire to possess is born, respect for other people's possessions is taught so the lack of respect for others property is connected directly with the alienation of the social values of the communist regime. Degradation of mega-state and society as a whole manifested negative phenomena as laziness, lack of professionalism, abuse, corruption, lack of responsibility and the destruction and theft of state property.
- Albania belongs to countries with a history of communist totalitarianism, where private property is liquidated and

replaced by state property, the state is the sole owner and employer.

Particularly important was the land law of 1991 according to which agricultural lands were divided among those working it and their families (about two-thirds of the population, in total). All former cooperatives were distributed as part of this process, although the details of implementation varied from region to region.

With the advent of democracy, the transformation of the economy was more chaotic than the political system. Through this law, the Albanian government established violations of human rights, depriving the legitimate owner from his property. Ineffective implementation of the law forced more and more population to put into question the power and the laws of the state.

State land during the communist government, was not distributed on the basis of state law as in the south and north. In the south the implementation of land reform undertaken by the coalition government of 1991, as happened in Dropull did not take into account any previous ownership.

In Mirëdita up north town, from the rugged terrain houses were constructed at a distance from each other and surrounded by land that they owned. Plots of land that had to be allocated were too small and land borders were well remembered before communism came. Therefore, the unwritten law "Kanun" came again into power. (De Waal: 2005)

So Kanun, during this new democratic period fulfilled a legal vacuum, supposed to be treated and filled by state laws.

A great paradox of the two regimes was the anger and hatred for oppression of communism and as well resentment for the new democratic system. The new democratic order was not reflected in the so-called Tabula Rasa, where everything would start from the scratch taking nothing from the previous regime. The transition phase carried with it a strong substantive link with the old regime.

The up mentioned variables show that the communist regime has brought a very serious challenge to reduce its effects and to work in all dimensions toward assimilation of the past. The continuous challenge of transition and consolidation toward reaching integration is also because of the communist culture, of a political culture totally different from democracy.

3. Political Parties

Albania is in a continuous challenge to fulfill European preconditions also because of its political parties. The communist regime had as one of its requisites the only party in town and the only party was administrated by the state, the state was the party and the party was the state. In the early '90es everything changed. The communism fell down and new groups or new political parties came into life, in spreading new values and democratic speeches and allowing freedom of speaking, of thinking, creating gatherings, parties, equality of opportunities, diversity etc. One of the representatives of democratic values is Robert Dahl, according to him, principal aspects of defining a real democracy are: fair and free elections, the right to be part of the political race in a multi-party system, allows oppositions, competition among parties, governmental reaction toward people preferences- considering the people as equal political beings and a certain public dispute. (Dahl: 2004)

Many scholars that have in their field of expertise democracy have made as far many formulations of what might be considered a democracy or a democratic system. A race for political domination and democratic societies are the ones who choose their governments through planned elections and through more or less fair and competitive elections.

According to my opinion, the Albanian democracy suits more to the minimalist democracy. (Schumpeter: 1950). Competitive elections are the ones where opposition is not oppressed but accepted by the elites in power (Verba, Nie and Kim: 1971)

Political parties in Albania during the long transition hardly recognize the winning party in an official way or congratulate the winner in any case. Political parties in most cases consider as illegitimate or non-transparent ways and manipulations to achieve the winning result. Albanian political parties having lack of political culture reflect it also in its programs. In Albania there isn't a clear division of politics and they lack of a profile or identity. Most of parties have become catch all parties, trying to get electorate from the masses without making a clear definition on the electoral platform they stand for. (Krasniqi: 2008) None of the parties is identified with left or right wing, political party programs are almost the same for both wings and there is lack of alternatives.

Based on public attitudes the left and the right don't have a considerable difference regarding property rights. In 1991 the new democratic government was unprepared to handle drastic changes in economy, politics, infrastructure, health issues and so over. Those years were very difficult to administrate from the new politics even though with old politicians. Law no. 7501, dated 19.07.1991, "On land", according to which agricultural lands were divided among those

who worked on them brought a massive confusion on people, bringing the natural state of people, possessing land which in real didn't belong to them as the state didn't born in 1991 but in 1912. It's a fact that during the communist regime private property stopped to exist but owners and their ascendants believed that the new system would bring to them what was denied in the past. In the early 90s it is noticed the use of Kanun (Kanuni i Leke Dukagjinit).¹ Acting through the Kanun was a rhetorical contradiction between the Socialists and Democrats, who let the Kanun take over the situation, for reasons of politics, where the Socialists, not having confidence in the new democratic government and the establishment of a government functioning from them, while in my opinion Democrats were unexperienced toward a major challenge to build a country from scratch, as the economy was ruined, democratic politics was new and in chaos, did not exist of many sectors of production or services, cultural life was extremely underdeveloped, Kanun was a supportive element along those challenges.

To not be in favor of the former owners after the Second World War was a political move to not lose the support and votes of the broad masses of the electorate. A survey of 1997 brings data that ¼ of the population expressed a spirit of violence on solving various social problems, including conflicts over land ownership.

Mainly along every electoral campaign is accompanied by social mobilization, frequent and fast constructions, such as the creation of informal settlements around the city of Tirana or displaced families in lowland and coastal areas, with the hope that the next government will legalize them. The state was aware about those movements, but the mobility from the deep mountainous areas to lowland and coastal areas was quietly allowed by the state. In practice every family that was displaced was uncertain and at the mercy of political parties and of the next government that would come into power also through the need of their vote.

4. Property Institutional Inefficiency

A country that has been under a communist regime as it was Albania leaves consequences in long term. Transition is taking too long exactly because of the past but not only. The lack of political culture followed by the political parties and their lost identity brings as well inefficient administrations. There are over nine institutions that deal exactly with property rights but it seems there is an institutional impasse. Having a contradictory and incomplete legal frame over property, unstable policies of governments that lead the country creates gaps for institutions to profit itself.

From various studies of countries with a similar economy and political situation, is noted that the implementation of successful reforms is possible, but rather implementation is effective depends on the state agencies that deal with the construction and consolidation of the administrative system of property.

To improve and foster the democracy toward consolidation there have been suggested also reforms to solve the property rights but reforms are facing delays and objectives have not been met according to deadlines of implementation such as: Completion of the national registration inside 2013, the creation of a public electronic register of real estate to consolidate and improve the functions of IPRO, international reports, such as IT, EC, WB show that the initial systematic registration have not finished in time, cadastral maps have not been entered into the system, therefore, public electronic register is not available, so it is faced an overdue implementation of the target. Nobody has given a decision on the recognition of ownership and therefore no expropriations. Legalization of informal settlements it is still in process and was supposed to be concluded by the end of 2013. The same situation is noticed for the verification of property titles to be concluded within 2013. Unification of an effective compensation scheme in 2013 and the beginning of its implementation based on a physical and financial fund for expropriated subjects, according to PRCA are compensated the files of 1994-1995 by governmental budget, there has been partial compensation with value up to 57%. For about 80 thousand illegal constructions, created after the deadline of 2006, it was decided that constructions in the areas where town planning / territorial are approved, will be legalized, while other buildings will break down. Time limits are not enforced, in the contrary they continue. Ministry of Justice and relevant institutions were to review and analyze legislation related to ownership in 2013 in order to draft the amendments to improve the security of property rights and to eliminate overlaps and contradictions. On the other hand another target not fulfilled is the emergency to improve the processes of registration, restitution / compensation and legalization, a target with time limit the 2012. Finalization by PRCA of the process of recognition of the ownership of expropriated subjects, about 7,000 files that have not been treated for everyone, includes religious communities as due timing 2014 but results as an objective that still has not been achieved.

¹ Kanun's power has its start in the end of late antiquity and validity of the Kanun is the period of the early middle Ages. Kanun of Lek Dukagjin is a conceptual self-governing code of Albanians in the so called pre-state era.

Reconsidering the legislation for PRCA to develop and fasten procedures for the completion of the administrative process of recognition of ownership by 2012, as far is still a goal not an achievement. Finalization from ALUIZNI of the legalization of 270,592 illegal constructions in 2013 is still in process and far from achievement. Concluding the legalization of the administrative process based on decentralization reform within 2013, registering of legalized properties at IPRO and supervision of final judicial decisions in the execution phase through a process coordinated between ALUIZNI, IPRO and PRCA - a process that has started but not finished yet.

As it is stated in the book of Allan McConnell "Understanding Success Policy, Rethinking Public Policy ", policies are not successful or fail because they cannot be implemented, do not meet the intended purpose or because they don't justify the work terms they perform.

Taking into account the publications and reports (World Bank, Transparency International, and USAID) and also the reform delays, the administration process is inefficient, guidelines, document and decision overlapping s, extensive procedures, and leaks of information in institutions, excessive bureaucracy, and lack of practice in structuring and organizing documents and so on. In such a situation it is necessary to find solutions, which improve system administration processes of property rights on the creation of more effective institutions of property rights.

In my opinion are needed more responsible and accountable institutions for land administration. Also in Albania, as in other countries of the region lack of defending property rights continues to be an obstacle for long-term solutions and therefore influential in preventing investment and economic development. State agencies such as IPRO, PRCA and ALUIZNI need to improve internal coordination's to ensure faster action, better organized and administrative system of the right of ownership. There must be a tight consistency and cooperation between the local and the central government. With the large number of institutions that deal with property rights and the non-coordination among them, it would be an alternative to consider the unification of all agencies in one instead. This might bring simplicity of the very confused procedures that are in place at the moment.

In addition, to have successful and efficient institutions human resources is one of the indispensable elements for such a formula. (Strategic Human Resources Management: 1999) Institutions that operate in the field of property usually are part of the well-known mechanism of rotation. Every time that a new party will be on power also the staff would change. This brings more confusion and delays in the processes of resolving the property issues. A positive change of property administrative agencies can come through continues trainings, workshops oriented on technical procedures, technology, management, customer service facilitations and sharing of good practices with countries that have passed through the same road Albania is passing today. Transparency is also an important element to return the lost trust to the people by making public the procedures that people are interested in, to be treated all equal for the same demands that people have.

5. Conclusions

Property rights as a crucial issue for integration is unsolved in these twenty-five years of democracy as a result of several reasons. Political culture is still under the influence of the past. Albanian elites are oriented toward the West but the concrete attitude they hold is not of a western culture. Elites, political parties, institutional organisms, groups of interests have difficulties to adjust toward democratic principles. Political parties only recently have been equipped with programs, programs that cannot be differed from one another. The right and the left have the same ideology, parties have become all catch parties by losing identity. If in the past the right wing party had property rights as a solid pillar of the program, nowadays it is noticed that the left has implanted in their program matters of property and giving priority to find solutions. Parties during the long transition to consolidation have not tried to find permanent solutions to property rights but every election each of the parties have stimulated more chaos in allowing people to build houses without legal approval and in the worst case these new settlements are not build in state property but in a property that already has a legitimate owner. This has brought conflicts escalating thousands of dead people and ruining the life of many innocent families that are forced to live isolated because of enmity.

In addition, besides a communist political culture that is holding back Albania toward a faster integration and besides political parties and elites that don't have the attitude and the will to cooperate for the good of the people and not for their own good, also governmental institutions or dependency institutions and agencies that deal with property rights reflect the chaos in not fulfilling in time objectives set by international institutions or Albanian courts and governmental entities. Lack of organization, overlapping's of decisions, extensive procedures, and leaks of information in institutions, excessive bureaucracy and untrained staff prolong the integration process as well.

Due to the analyses of the variables mentioned in this paper, I consider valuable to suggest that the past must be

an indicator of not pulling back but pushing Albania toward a better future, toward a democratic life, toward a qualitative life. Political parties must put the people first and not their selves, political parties and governments must walk in their own feet and act as a united body in taking decisions and work to improve each other and their self, only by doing so there will come out a good product that will make Albania closer to Europe and part of it.

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