

THE IMPACT OF THE POLITICAL CULTURE IN POLITICAL SYSTEM AND RULE OF LAW: ALBANIA CASE

Jonida Mehmetaj, MA.
University “Ismail Qemali” Vlorw, Albania

Abstract

This study will be focused in analyzing on how political culture can impact in the rule of law and political system in Albania. Political system is defined as the interaction between political institutions and political culture. While, the constitution of the legal state is a common responsibility of the citizens, civil society and state institutions. All these three concepts, political culture, political system and rule of law are strongly connected among them; this way political culture will impact in the performance of independent judiciary and political institutions. In case of Albania, there's a different situation; political culture, yes it can affect but the question is if it improves the performance of these institutions or worsen that.

Albanian political culture must be perceived within the context of the historical background, because such periods of time like communist regime, problematic transition (accompanied with civil war on 1997) will have the impact in political and cultural education of the citizen. That will contribute to deepening of subordinated point of view and approaches, subordinated to authorities, non-active civil society, corruption expansion in all governmental structures and so leading to harm of liberal democracy.

To this background and political culture, many issues addressed to accountability of political elites in control and responsiveness to the voters will be appeared. Legal accountability, which implicates governing according to the law, equality in the face of law, will be in danger if changes don't get started with public opinion, education of democratic values, independent judiciary, power division and corruption extinction.

Keywords: Political culture, rule of law, political system, civil society.

Introduction

Initiatives to address the interdependence of political culture and the political system of the rule of law, political condition of citizen formation, and sensitize it to notions of democratic system. The study will address two important aspects; in the first part will be an analysis of the political system closely related to the functioning of the rule of law, while in the second, the political culture of the Albanian society in different periods. The political system will consist of constitutional political institutions, these institutions in Albania are: president, parliament, government, local government, judiciary, constitutional court, the political parties. Each of the institutions will be briefly analyzed in order to understand how the political system is organized in Albania. Understanding the needs of these institutions, the necessary legal framework, the constitution, and other normative acts on the basis of which these institutions function, explain the concept of the rule of law as the basis of a democratic. The second part will be dedicated to understanding the political culture, an analysis conducted in three different systems. Treatment of political culture in Albania at the time of the communist regime, in the first period of democratic transition following the collapse of the communist regime, and in the second decade of the Albanian society claims the existence of a genuine democratic system. The obvious contradiction of the political backgrounds in a single

nation within a century dedicated to changing the political system and regime, which on the basis of these systems and political culture, civil society, public opinion and the operation will indicate whether or not the state law.

The political system and the rule of law

The existence of the rule of law is the foundation of a democratic system, freedom and respect for human rights, development of a society, welfare and public peace. The existence of a state of law is conditioned by constitutional norms, laws that enable the proper functioning of all decision makers, public administration and justice system functioning. The rule of law is a principle welcomed in the Albanian state, this notion expressed pride in the preamble of the Constitution of the Republic of Albania "*We, the people of Albania,.....with determination to build a social and democratic state based on the rule of law, and to guarantee the fundamental human rights and freedoms,.....*".⁹⁹ Albanian state contains the legal framework necessary to master a state of law. Along the Albanian legislation The Republic of Albania applies international law that is binding upon it, Art 5.

Biggest challenge to the rule of law constitutes its implementation in practice, a fact which is problematic in the case of Albania. Numerous factors hamper the full existence of a state of law such as: its applicability to slack, problems in the independence of the judiciary, and the adoption of laws by a majority in parliament. The importance of the rule of law, as the basis of any democratic state, is the foundation of the EU, who is longing for his respect as the basis of the conditions for membership. The concept of the rule of law is directly related to the political system, the development of political institutions on the basis of justice.

The political system is studied by David Easton, whom defines five elements: inputs, outputs, gate keepers, outcome, and feedback that make up the political system. According to Fred H. Will Hoit ("Power and Government"), the political system is comprised of several key features such as the existence of the constitution, which essentially prohibits government abuses its power, separation of the three powers, representative government responsive and accountable the existence of electoral democracy, pluralism party interest groups, etc. peaceful changes. As we come to the conclusion that the political system is a union government institution who aims to implement the policies and growth rates for the general welfare of the people, maintain order and conduct their activities on the basis of the Basic Law constitution.

Separation of powers is defined in Section 7 of the Constitution of the Republic of Albania, according to the text "the system of government in the Republic of Albania is based on the separation and balancing of legislative, executive and judicial." All three of the above links are present in all systems of government, democratic and in those totalitarian or authoritarian. The problem lies in the nature of their operation, which is different, in principle, they are defined in the constitutions of the various systems in three separate respective powers; they practically function as separate institutions makes the difference between democratic and totalitarian systems. The branches of government in the democracy execute their decisions separately from one another, in communism three separate branches of government are under the direction of a single body.

Separation of powers determines the level of governance which is an essential agency that formulates and implements actions and functions under a particular nation-state.¹⁰⁰ Governance relates to the political system through two interdependent components: 1. Formal structures, official, consisting of complex institutions and government agencies, as well as sites of constitutional laws and governance procedures. 2. Political community, which means community of people linked together in so-called "political division of labor" where

⁹⁹ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010.

¹⁰⁰ Filo, Llambro. Sistemet politike bashkëkohore. Tiranë: ideart. 2008. Fq, 17

segregated political authorities or officials in government positions, citizens in general, who are integrated in performing activities, such as political organizations, or as public employees, voters, taxpayers, etc.¹⁰¹

The political system in Albania will consist of political institutions or otherwise called public institutions, the nation, as the totality of governance structures. Main constitutional institutions in Albania are the president of the republic, parliament, government, local government, judiciary, constitutional court, and the political parties. The Constitution of the Republic of Albania Art. 1 of Albania declares its parliamentary republic.

The President of the Republic is the Head of State and represents the unity of the people, Article 86. The role of the president in our country is to be the neutral body; it is positioned as an arbitrator in resolving institutional crises such as in disputes between parliament and government, and no executive powers. Powers of the President are defined in Article 92 of the Constitution, which among other things specifies that addresses messages to the Assembly; exercises the right of pardon according to the law; grants Albanian citizenship and permits it to be given up according to the law; gives decorations and titles of honor according to the law; accords the highest military ranks according to the law; on the proposal of the Prime Minister, he appoints and withdraws plenipotentiary representatives of the Republic of Albania to other states and international organizations; accepts letters of credentials and the withdrawal of diplomatic representatives of other states and international organizations accredited to the Republic of Albania; signs international agreements according to the law; etc.¹⁰² Presidents are elected by parliament for a five-year term with the right to be chosen only once, they can however enter the voting upmost 5 times, Article 87, paragraph 1.

The Albanian parliament is called the Assembly of Albania, Albania's government owns the legislature assembly, which structurally is unicameral, and is elected for a four year term. The Assembly consists of 140 deputies. One-hundred deputies are elected directly in single-member electoral zones with an approximate number of voters. Forty deputies are elected from the multi-name lists of parties or party coalitions according to their respective order, Article 64, paragraph 1. Assembly is the exponents of popular sovereignty, and based on political pluralism in its composition. In the legislative process the right to propose laws Council of Ministers, every deputy, and 20 thousand voters.¹⁰³ A draft law is voted on three times: in principle, article by article, and in its entirety.¹⁰⁴ President of the Republic promulgates the approved law within 20 days from its presentation.¹⁰⁵ The law goes into effect with the passage of not less than 15 days from its publication in the Official Journal.¹⁰⁶

Executive consists of a central or local bodies, on top of which stands the government as a constitutional body. Albanian Government consists of the prime minister, deputy prime minister and ministers all constitutional bodies.¹⁰⁷ Prime Minister as head of government has the following powers: represents the Council of Ministers and chairs its meetings; outlines and presents the principal directions of general state policy and is responsible for them; assures the implementation of legislation and policies approved by the Council of Ministers; coordinates and supervises the work of the members of the Council of Minister and other institutions of the central state administration; performs other duties prescribed in the Constitution and the laws.¹⁰⁸ The Prime Minister resolves disagreements between ministers article 102, paragraph 2.

¹⁰¹ Ibid

¹⁰² Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 45. Neni 92.

¹⁰³ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 38. neni 81, pika 1

¹⁰⁴ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 39, neni 83, pika 1

¹⁰⁵ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 40, neni 84, pika 1

¹⁰⁶ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 40, neni 84, pika 3

¹⁰⁷ Anastasi, Aurela. E drejta kushtetuese. Tiranë: Pegi. 2004. Fq. 164.

¹⁰⁸ Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010. Fq. 48, neni 102, pika 1, a, b, c, ç, d, 2.

Local governments will be administered by municipalities in villages, towns and in the counties, to exercise their duties of self-government, based on the principle of decentralization and the constitutional principle of local autonomy.

Judicial power is exercised by the Supreme Court and Courts of Appeal, Courts of First Instance. Albanian justice system consists of Courts of First Instance, Courts of Appeal and Supreme Court. Each level addresses a civil, criminal, commercial and administrative trial¹⁰⁹ facility recognized by the three jurisdictions: civil jurisdiction, criminal and administrative.¹¹⁰ Albanian justice system includes 346 judges who are scattered in 29 Courts, 6 the Court of Appeal, 1st Military Court of Appeal and the High Court. ¹¹¹The Constitution of the Republic of Albania prohibits the creation of exceptional courts. In Article 135, paragraph 2, it states: “Parliament may by law establish special court for the field, but in no circumstance a Court of Emergency”. This is reflected in the third paragraph of Article 11 of Law 8436, dated 28.12.1998 “On the Organization of the Judiciary in the Republic of Albania”.¹¹²

The Constitutional Court is subject only to the Constitution; it is defined in Article 124, paragraph 2. Likewise Constitutional Court of the Republic of Albania is not part of the ordinary judicial system but it is a special jurisdiction, the charge to control the constitutionality of laws and acts other normative.¹¹³ The task of ensuring respect for the Constitution and the activity of public power is imposed in Constitutional Court. It is the last instance loaded with control over the acts issued by state bodies focusing on the terms of their compliance with constitutional provisions. Constitutional justice means that the institutions are responsible for the protection of the legal order of a nation.¹¹⁴ It is otherwise known by the term "Guardian of the Constitution". For this reason, the Constitutional Court's controls the legislative process that's regarded as the culmination of the rule of law. The tendency to put the constitutional control of the legislature, always respecting its sovereignty lawmaker, has become a distinctive feature in almost all democratic regimes in the world today.¹¹⁵ Powers of the Constitutional Court are provided for in Article 131 of the Constitution.

Political parties are an organized group of people with the mindset of wanting to gain power by elections governing electoral or other means. “Political party” is a party registered in accordance with law no. 8580, dated 17.02.2000 “On political parties”. Article 9 of the Constitution stipulates that political parties are created freely. Their organization shall conform to democratic principles. Political parties and other organizations, programs and activities of which are based on totalitarian methods, which incite and support racial, religious, regional or ethnic, to use violence to take power or influence state policy, as well as those with secret character are prohibited by law. Financial resources of the parties and their expenses are always made public." Albanian model has similarities to the Croatian constitutional model. In Croatia, the Constitution devotes a special section of political parties.¹¹⁶

The main political institutions explained above, are constructed on the basis of a democratic system that recognizes, respects and requires the rule of law. For proper

¹⁰⁹ Gjykatat e Republikës së Shqipërisë. Marrë nga, <http://www.gjykata.gov.al> parë për herë të fundit më [12 prill 2014]

¹¹⁰ Anastasi, Aurela. E drejta kushtetuese. Tiranë: Pegi. 2004. Fq. 164.

¹¹¹ Gjykatat e Republikës së Shqipërisë. Marrë nga, <http://www.gjykata.gov.al> parë për herë të fundit më [12 prill 2014]

¹¹² Ibid

¹¹³ Ibid

¹¹⁴ Gjykatat kushtetuese. Marrë nga, <http://www.gjk.gov.al> parë për herë të fundit më [12 prill 2014]

¹¹⁵ Ibid

¹¹⁶ Krasniq, Afrim. Evropa juglindore në periudhën paskomuniste: (Analizë e sistemeve partiake dhe qeverisëse). <http://www.doktoratura.unitir.edu.al> . fq 65.

functioning of these institutions in the service of society, besides their existence is necessary arbitrariness, the integrity of persons employed in these institutions. Respect for the rule of law will be influenced by the actors who will have a background dependent on culture, tradition, and intellectual preparation, professional. Analysis of political culture will give us further explanation in the case of Albanian society.

Political Culture

Various authors have given different conceptions of political culture, familiarity with these conceptions background provides us the right to adjust, handle and recognize the political culture in society. Comparative authors stop the government in handling the political culture of the population measure as an important factor in determining the political system and its functioning. Political culture is a set of views, attitudes, and behaviors to the political system as a whole.¹¹⁷ At the same time, it carries a historical development process, which is transmitted from one generation to another, the political culture also appears in the form of ideals and values.¹¹⁸ One of these theorists is that Lawrence Mayer political culture has ranked as one of the main factors that influence the formation of political identity of the countries. The concept of political culture refers predisposing characteristics, the internal situation of individuals, whose predispositions react to certain stimuli in a certain way, one thing which modern terminology would not accept simply because they would consider subjective.¹¹⁹

Political culture includes the following properties: attitudes towards authority, beliefs or conceptions about the truth, a logical or pragmatic method for making decisions, feelings of sympathy, cooling, rejection, trust or confidence, knowledge and information, and basic values.¹²⁰ Attitudes toward authority can be explained as submissive, reverent or egalitarian.¹²¹ Albanian society is faced with challenges in the political culture of these changes that are dedicated forms of governance. Here you will understand the elements of the civil society, public opinion, or political culture which will be closely linked to the former regime. Albania is a country which has known communist regime, long and challenging period of transition, and a democratic system, although unconsolidated. I originally referred to the political culture that existed in Albania at the time of the communist regime.

The communist regime was set in 1945 and imposed a reign of terror that lasted 45 years. Building political system, regime form was that of a government in the hands of a dictator, who moved exceptionally wild for society, destroyed private property, traditions, culture, and religion canons, and widely used in executions for those who were against the regime.

The wealthy class took the land and spread evenly with the villagers, and they destroyed oldest institution of traditional and customary canon, the strong role of men in society. Also, the government still widely used persecution against individuals in politics but also among ordinary individuals who expressed dissatisfaction with the system, they fired, imprisoned in forced labor camps or executed. Features of political culture in such a system will be those absolute lack of human rights, active civil society which did not exist, citizen subordinate, peers in the political system but so forced and imposed, this shows participation in elections fictitious which was 100%, with an absolute victory of the Labor Party. The societal attitudes toward authority were authoritarian in the sense that evidenced the extraordinary ability of elite to govern and duties of others are blind to obedience.

¹¹⁷ Filo, Llambro. Sistemet politike bashkëkohore. Tiranë: ideart. 2008. Fq, 67.

¹¹⁸ Ibid

¹¹⁹ Majer, Lawrence C. Politikat krahasuese. Tiranë: Ora. 2003. Fq,14-16.

¹²⁰ Ibid

¹²¹ Ibid

In this category the rule, the relationship between the three concepts taken in the analysis, political culture, political system and the rule of law are non-existent. For political system, totalitarian, political influences and culture and suppressing it and given effect in the non-existence of the rule of law or the rule of law concept which does not exist here.

The communist regime → Submissive political culture → Rule of law does not exist

The political culture that has existed in Albania after the 90's and established communist regime falls democratic system, period coupled with a long and problematic transition, mention here of the civil war held in Albania in 1997. According to the author Vajdernfeld, cultures of the new political post-communist societies are a product of processes, which are held by at least three dimensions:

- The universal dimension, where the political culture and phenomena associated with symptoms typical for each character universal twist.

In the regional dimension, with its integral element changes, characteristic of those societies, which are in the path from communism to democratic rule and a market economy.

- In particular dimension of the road, where history, geopolitical conditions and national structures of post totalitarian states affect what challenges before which these countries are to have a differentiated character and a different radius.¹²²

Historically cultures of the countries of the western Balkans is perceived as a political culture introduced in subordinate category, which means the unquestioned obedience unlimited action against those who are in positions of authority. To the Western Balkan countries, Albania appears to be depending on the need and desire for protection and safety to those who are in power. Freedom is perceived negatively, as something that enables individuals to engage in risky behavior, unlike the west where a culture or tradition flourished humanist. As a result of the communist regime that existed in these countries for a long period of time to the citizens of the Western Balkans existed feeling that equality and liberty were negative concepts that the average citizen was totally conservative and opponent of change.

Values and modernity with which to face the Western Balkan countries in terms of creation of their states and secession from the communist regime they'll look at will change significantly. When Ronald Ingëllharti guided by values post materialist says that while people meet their material needs, modernizing forces them to focus less on economic issues and more on values such as equality and self-expression, and these values are those that facilitate the process of democratization that was the main goal for the Balkan countries Political culture more generally influenced by the past experiences of a nation. This shows that the political culture in these countries is very different Western European countries which in turn are similar to U.S. culture. But the political culture itself is an obstacle to good governance in a time of crisis as public opinion and citizen feedback are very important to bring itself and governments to exercise their role as accountable.

Democracy in Transition → Political culture of juvenile → Rule of law problematic

When the political system is a democracy or newly consolidated, the past is present, keeping the uninformed and inactive citizens, civil society in this way is inactive, still falls upon the citizens to make decisions. Life just is familiar with concepts such as the rule of law, human rights, equality, freedom, rights, and their use in full is due lukewarm disinformation and learning such concepts. Consequently the existence of a state law adopted by Westerners in its full form, but the manner of its implementation is weak, will prevail element such as

¹²² Weidenfeld, Werner. Demokracia dhe ekonomia e tregut në Evropën Lindore. Tiranë: Fondacioni Sorros. 1999. Fq. 33.

corruption, no meritocracy, social relationships, tribal employment. Consequently, the rule of law is not immune.

It is very difficult to determine when the Albanian state has completed the transition and establish democracy, such a separation is impossible. However let us refer recent years, at least the last 10 -year-old, we rotate peaceful political, elections free and fair, transparency in governance, in terms of citizen access to information, as a result of modernization and development impact the effects of globalization. Respect for human rights, increase awareness in society against the continuation of higher studies, what increases and cultural level. Creating NGO, active civil society, where the sovereign is considered in its requirements, from its representatives in key issues for the future of the country.

Society's attitudes toward authority will be respectful, accepting the representation of some of the most qualified people to fill leadership roles who have an obligation to govern in the public interest and should be held accountable for the results of government them. Individuals are more informed, more responsible and more clear what kind of demand. Albanian state relations problem in the rule of law, political system and political culture, but the problem, or a participatory political culture have also industrialized countries which are shaped like democracy much before the Albanian people to be recognized with these notions. Let us refer to a study conducted by Almond and Verba political culture in five nations. They distinguish three types of political culture: local (Parochial Political Culture) of the subject (Subject Political Culture) and peers (Civic Political Culture) and the result was that only Britain and the USA had a participatory democracy, Germany and Mexico subject to local or parochial Italy.¹²³ For as long as powerful countries have been in such a situation, the Albanian nation, which has a short-lived democracy, one has to understand its political culture or participation in governance.



Conclusion

Building the rule of law has become accomplished if coordination between state institutions that makes up the political system that may be a communist or democratic political culture. The relationship between the three concepts is inevitable and none of the concepts can exist without the presence of two other concepts in a democratic system. Based on research conducted I will turn my answer to the question raised in the beginning of the paper, if the political culture affects the rule of law and the political system? If political culture is in Albania increases the performance of state institutions or to reduce them? The influence exerted by the political culture, active civil society, public opinion, etc. , obviously that affects the consolidation of a democratic system , the existence of institutions serving the welfare of society and the rule of law , recognition and respect of freedoms and human rights .

Changes along the Albanian state structures and the way the state has changed the perception of the society's participation in politics and demand their representative's account. It will only stop the government in the recent years, in continuing efforts of the people to establish a liberal democracy. But achieving a consolidated democracy will face numerous factors such as the historical past, remnants of the mentality of society, and very problematic transition prolonged consolidation of functional institutions. Civil society in the first steps of its formation, not ripe and mature, a public opinion which has lost hope in a bright future and credibility to elites, to a corporation subject to the authority, which does not require the its

¹²³ Almond, Gabriel; Verba, Sidney. *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton, NJ: Princeton UP, 1963.

right on vital issues (infrastructure, potable water, sanitation, electricity, health, education etc.), or minimum for other societies of the west.

This aspect of the formation of society, and these beliefs are reinforced even more by the deficiencies of organization, operation, reliability of state institutions. Their direction towards tribal and social relations, where meritocracy rarely recognized the large scale occurrence of corruption. State institutions are damaged and don't function completely, influenced by the political culture, because if citizens would be more aware of the role, the importance it has as sovereign and accountability of representatives would be full. If the political class would be aware of the responsibility it has towards its sovereign then the constitution, laws, and the whole legal system would take tremendous value, value that it really has, thus building a nation of law and so build a democratic system by joining the European Union.

References:

- Almond, Gabriel; Verba, Sidney. *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton, NJ: Princeton UP, 1963.
- Anastasi, Aurela. *E drejta kushtetuese*. Tiranë: Pegi. 2004.
- Easton, Davis. *An approach to the analysis of political system*. World Politics, Vol. 9, No. 3.
- Gjykatat e Republikës së Shqipërisë. Marrë nga, <http://www.gjykata.gov.al> parë për herë të fundit më [12 prill 2014]
- Gjykatat kushtetuese. Marrë nga, <http://www.gjk.gov.al> parë për herë të fundit më [12 prill 2014]
- Eckstein, Harry. *Culturalist Theory of Political Change*. The American Political Science Review, Vol. 82, No. 3. (Sep., 1988), pp. 789-804.
- Krasniq, Afrim. *Evropa juglindore në periudhën paskomuniste: (Analizë e sistemeve partiake dhe qeverisëse)*. <http://www.doktoratura.unitir.edu.al> 2013.
- Kushtetuta e Republikës së Shqipërisë 1998. Tiranë 2010.
- Majer, Lawrence C. *Politikat krahasuese*. Tiranë: Ora. 2003.
- Legjislacioni. Marrë nga, <http://www.drejtesia.gov.al> parë për herë të fundit më [12 prill 2014]
- LIGJI, Nr.8577, datë 10.2.2000 Për organizimin dhe funksionimin e Gjykatës kushtetuese të Republikës së Shqipërisë.
- Filo, Llambro. *Sistemet politike bashkëkohore*. Tiranë: ideart. 2008.
- Si një projektligj bëhet ligj. Marrë nga, <http://www.parlament.al> parë për herë të fundit më [12 prill 2014]
- Welch, Stephen. *The Theory of Political Culture: Published to Oxford Scholarship Online*. 2013.
- Weidenfeld, Werner. *Demokracia dhe ekonomia e tregut në Evropën Lindore*. Tiranë: Fondacioni Sorros. 1999.