

THE COMPLEX RELATIONSHIP BETWEEN GOVERNMENT AND CIVIL SOCIETY IN ALBANIA (TWENTY YEARS IN FOCUS: FROM 1990 TILL 2010)

Nevila Xhindi, PhD

European University of Tirana, Albania

Abstract

It is increasingly recognized that development success depends not only on a vibrant private sector and an efficient public sector, but also on a vigorous civic sector as well. The link between government and civil society is nowadays crucial for Albania. While government rely on authority to achieve outcomes and private sector firms rely on market mechanisms to provide incentives for mutually beneficial exchanges, civil society actors in comparison, working through NGOs, rely on independent and voluntary efforts to promote their values, to further social and economic development and to influence change.

The growth of the third sector in Albania during the transition to a market economy and the role it has played has varied over time. There is general consensus among government officials, donor and international agencies, as well as civil society actors, that both the poorly defined functions of civil society in Albania, and also the lack of clarity in the assignment of responsibilities for specific competencies in political, social and economic arenas, are two of the main obstacles to the realization of a successful government-civil society relationship.

In assessing this complex relationship for a period of 20 years, this paper provides a historical background of the development of the third sector in Albania, as well as giving consideration to their current state of development and recommendations for the future.

Keywords: Government, civil society, relationship

Introduction

The early 1990s have witnessed major political and economic upheavals in Albania. The abuses of the dictatorial regime have led to a search for a more responsive form of government, at the same time, the

failure of central command and control system, the inefficiencies of state enterprises and the perceived success of market economy have overturned the strong, controlling role of the state in previously publicly dominated economy in Albania. These two fundamental transformations which characterize much of the world have been described as “the establishment of open markets and the movement toward more accountable democratic governance.” (7)

The growth of the third sector in Albania during the transition to a market economy and the role it has played has varied over time. This has been greatly influenced by various factors, such as the country’s shifting agenda in (12) terms of political, social and economic development, as well as the existing needs and the level of support from donors. Civil society-government⁶ relations in Albania have undergone the same stages of transformation as the development of the third sector itself. The emergence of hundreds of NGOs and civil society groups after 1990 in Albania was considered a major achievement on the road to democracy. In Albania government–civil society relations are considered weak and largely superficial (16). Based on the IDM- CIVICUS⁷ survey of 2010, the dialogue and exchange information “Government-civil society” is limited in its 58 %. Strengthening the linkages between government and citizens/civil society is a key leverage point for increasing citizen access and influence.

This paper focuses on the role played by civil society in the country’s political, social and economic processes, and the challenges faced by this new relationship. By doing so, it answers important questions: when and how did civil society emerge in a fragile Albanian democracy? What were the challenges? What were the highlights of the state-civil society relationship during these years of democracy in Albania? How was the role of civil society unique, and of vital importance for the country’s progress? And finally, what are the challenges and the opportunities ahead regarding this relationship?

In trying to grasp the nature of government-civil society relationship, based on the literature review and in empirical work, the paper brings a broader historical perspective and shows the different levels of this complex relationship, including involvement and role of civil society in political,

6 The government-civil society relations in this paper are considered from jointly implemented activities and projects to formal mutual participation in meetings.

7 CIVICUS: World Alliance for Citizen Participation (Johannesburg, South Africa). In the course of implementation of the CIVICUS Civil Society Index (CSI) for Albania in 2010, the Institute for Democracy and Mediation (IDM) has cooperated with a wide range of institutions present in the country. The author of this paper was part of the project research group and in this framework she was responsible for the case study government-civil society in Albania.

economic and social problems, been an actor in setting priorities for the country's future.

Methodology

Several methodological instruments were used during the analysis done in this paper. These included an extensive desk review, which was important, in part, for establishing the nature of the link between documents and processes related to government and civil society relation. The materials collected were highly significant for the historical analysis of the government-civil society relationship.

The paper relies on a variety of primary and secondary sources – the IDM-CIVICUS survey, focus group discussions and other consultation activities conducted, as well as diverse secondary data sources, using an innovative mix of participatory research methods, data sources, and case studies to comprehensively assess the relationship of government and civil society in Albania.

Wherever necessary, it was decided to use face-to-face interviews to fill any information gaps that became evident in the research. The information collected from these interviews is presented in this paper in the form of anecdotal evidence and, upon the request of those interviewed, anonymity is maintained and no specific references are given. The people interviewed were representatives from the government, from the Department for Strategy and Donor Coordination in the Prime Minister's Office, one of the advisers of the Minister of EU Integration, and two more Director Generals at the Ministry of Finance.

Literature review

Organizations of the citizen sector are usually called 'non-governmental organizations' (NGOs) in the development context, but are also referred to as non-profit, voluntary and independent civil society or citizen organizations. A wide range of organizations fall under the NGO title. The United Nations Development Programme (UNDP)⁸ defines an NGO⁹ as:

... Any non-profit, voluntary citizens' group which is organized on a local, national or international level. Task-oriented and driven by people with a common interest, NGOs perform a variety of services and humanitarian functions, bring citizens' concerns to governments, monitor policies and encourage political participation at the community level. They provide analysis and expertise, serve as early warning mechanisms and help monitor

⁸ In this paper reference will be made primarily to NGOs (Non-Governmental Organisations) and the third sector. However we recognise that other terms are used to refer to both the sector which is non-governmental and primarily values-driven (such as Civil Society, the non-profit sector) as well as the individual organisations that make up this sector (such as charities, voluntary organisations).

⁹ EU civil society definition includes the labour market actors such as social partners (Trade Unions and Employers Federations), organizations representing social and economic players at large (consumer organizations for instance), NGOs, CBOs, religious communities and media.

and implement international agreements. Some are organized around specific issues, such as human rights, the environment or health.

In studying democracy, it is difficult to understand the state without reference to civil society. In one school of thought, the state can be considered to represent "dominant policies" and civil society to represent the "politics of consensus" (4). So, as the state and civil society complement each other in the process of governance in society, the state can be seen as representing the structure of government while civil society creates and contributes to the values and norms existing under the government of the day. Civil society can help to build a balance between the power of the state and that of the people. It is thus one of the three domains of governance for society (10):

- **The State:** creates conducive legal, political and economic administrative framework
- **Private sector:** creates jobs and incomes for the working population
- **Civil society:** facilitates political and social interactions

‘Governance’, as a concept, has to do with the relations between government and citizens, and the institutions created by them. (9) It defines the way in which power is exercised in the management of all resources, namely resources of an economic, social, and natural or human nature, to support the development of the country. This would include defining how the political system shapes these processes. More specifically, governance means the process of decision-making. Civil society can therefore be seen as ‘spaces of social reality’, where people seek to protect and claim their rights and interests. Where civil society is strong, the possibilities for a broader democracy are also great (9).

Limited literature about the collaboration of civil society and government in Albania was identified during the desk review for this study. Most of the reviewed reports and documents published during the last two decades focusing on civil society issues in Albania shows lack of data or confusing data, and some are very thematic like training provides related (22). These documents include the annual reports of civil society organizations, the annual thematic reports of international institutions i.e. the NGO Sustainability Index published by the USAID Office of Democracy and Governance (2007-2008) and the Country’s Progress Reports of European Commission, different working documents from Albanian NGOs i.e. Training Needs Assessment for NGOs prepared by Partners Albania, and NGO assessment by Netherlands Development Organization representation in Albania. Websites of international donor and civil society organizations, as well as information from national and international conferences related to the subject.

As pointed out above, there is little literature to review on the history of civil society in Albania and even less on the concept itself. Defining civil society is a difficult task not only in countries like Albania because it is a relatively new concept in the scholarly discourse, but also in countries with a recognized tradition of the third sector (24) Terms such as civil society, non-governmental organisations, and not-for-profit organisations have been added to the Albanian discourse only after the fall of communism. The modern definitions of civil society may vary, but the task of defining it in pre-1990s Albania is altogether a different issue. As Brinton (2003) explains, civil society in the communist context had a different meaning mainly due to the existence of a blurry separation between the public and the private sphere combined with the fact that freedom of expression and association did not always exist. Hence, activities which would resemble those of today's civil society would be impossible to develop independent of the state. "It was only in the small space between the regime and the individual that dissidence against regime occurred" (11)

The past left Albania unprepared for the development of the civil society following the fall of communism. The recent developments of the sector have emphasized the need for new definitions and advancing the measures to regulate it. The way civil society has been perceived in the last two decades has been shifting from a narrow concept related mainly to NGOs, to a broader one encompassing the realm between the state and the market (22). Nonetheless, there exist few definitions we can point out as official and widely agreed upon in Albania and these are the definitions used for legislative purposes. The Civil Society Charter in Albania (2009), a draft agreement document between government and civil society, refers to the civil society as the non-governmental sector. It states that "The Civil Society Charter aims to establish a partnership between the non-governmental sector in Albania and the government at national and local level ..." (4). On the other hand, article 2 of Law No. 8788, of 07.05.2001 on "Non for profit organisations" defines non-governmental organisations as "associations, foundations, centres, activities that are organised independently, without state interference." The not-for-profit dimension is defined as "any economic or non-economic activity from which the incomes generated are used for activities encompassed in the organisation statute".

History and Development

The Government's focus during the early transition in Albania consisted mostly in the preparation and implementation of legislation on crucial reforms of the market economy closely assisted and monitored by the international institutions such as the World Bank and International Monetary Fund. Civil society was an unknown concept, which was reflected in the Government's poor understanding about NGOs. Many NGOs were

established in response to important social issues evident in society which were not seen as being addressed by the government at that time. Civil society was an unknown concept, which was reflected in the government's poor understanding of NGOs in the country. Actors in civil society were often hesitant to establish communication with the government, due to reported cases of hostile attitudes held by the state towards the independent press, journalists, individuals and the opposition in general (8). This was particularly evident during 1996. The general atmosphere of the 1996-1997¹⁰, restricted the work of human rights organizations. In 1997, critical human rights groups came under constant attack from the state-run media for being "communist" or "enemies of the state".

As Albanian society continued to develop from 1997 onwards, problematic signs of poverty, illiteracy, the deterioration of health care services, the increased number of vulnerable groups, human trafficking (17), unemployment, and corruption, became increasingly evident. As a result, there was a need to analyze the severity of these problems, as well as to provide recommendations for implementing necessary policies to improve the situation. Civil society actors were invited to participate in strategy formulation by the government, but their participation proved to be limited (12) No funding support from the government - or very limited funding - made it impossible for the third sector to participate meaningfully and be active in the government initiatives.

In transition: period of development for the third sector

Between 1997 and 2001, positive socio-economic developments and events in the country influenced the development of the third sector considerably (19) in all its dimensions. This included the number, mission and scope of activities, volunteer involvement, funding, advocacy and public image, and governance (cite). The number of NGOs engaged in real policy dialogue with the government also increased during this period. In the period 1998-2001, the Government of Albania (GoA) drafted the Anti-Corruption Plan¹¹ (13). Since then, NGOs have been committed to joint collaboration in

¹⁰ During 1996-97, Albania was convulsed by the dramatic rise and collapse of several huge financial pyramid schemes. By March 1997, Albania was in chaos. The government had lost control of the south. Many in the army and police force had deserted, and 1 million weapons had been looted from the armories. Evacuation of foreign nationals and mass emigration of Albanians began. The government was forced to resign. President Berisha agreed to hold new parliamentary elections before the end of June, and an interim coalition government was appointed. (Jarvis, 2000)

¹¹ The Government, in close cooperation with all other State institutions and civil society, is determined to pursue a nationwide anti-corruption strategy embracing the whole community and consisting of the following three elements:

1. Enforcement of the laws against corruption
2. Prevention of corruption by eliminating opportunities for corruption that exist in the systems of the public administration

the fight against corruption. Anti-corruption emerged as a new focus area in civil society, coinciding with several regional anti-corruption initiatives undertaken after 1999, such as the Stability Anticorruption Initiative for SEE (SPAI), and the Anti-Corruption Network for Transition Economies. The first clear initiative towards the institutionalization of NGO- government relations occurred in 2000. This was when a Minister of State was appointed to be in charge of coordinating the preparation and implementation of the government anti-corruption plan, initiated by the third sector. Since then, several NGOs have been active and have provided their input into the revised Governmental Anti-Corruption Plan. This helped turn it into a countrywide cross-sectoral strategy, forming part of the National Strategy for Development and Integration 2007-2013, coordinated by the vice Prime Minister. The third sector involvement in the fight against corruption was further enhanced through the establishment of the Albanian Coalition Against Corruption (ACAC) in March 2001. This was an umbrella organization of over 100 NGOs whose mission was to reduce corruption throughout the country, in a non-confrontational manner, by strengthening the role of civil society (21).

During the period of 1998 to 2009, civil society actors were also involved as monitors in the election processes. The first civil society monitoring role was exercised in 1998 during the Referendum on the Constitution of Albania, which took place on 22 November, 1998. (19) During local elections in 2003, a group of 18 NGOs organised a much more comprehensive monitoring process than during previous elections. (18) For the first time, these organizations cooperated together under a single umbrella group called the Forum of Domestic Observers. The Forum observed the national elections of 2005, incorporating around 3500 accredited observers. The civil society presence was further increased in the local elections of 2007. The Coalition of Domestic NGOs, which consisted of 7 domestic groups with 3200 accredited observers, together with 600 other accredited observers, monitored the local elections in 2007. In addition to this, MJAF¹² and the Election to Conduct Agency (ECA)¹³ ran a parallel vote tabulation in 12 regions in order to ensure transparency of the counting process.

Consolidating the relationship: trust and mutual understanding

During 2002 to 2005, part of the Albanian civil society engagement shifted from the protection of civic, political, economic, social and cultural rights, to the quality of governance in the country and its outcomes. The third

3. Raising awareness about the dangers of corruption and developing public support for fighting against corruption (Albania, 2002)

¹² MJAF is an Albanian youth movement

¹³ www.eca.org

sector's role increased in the country's process of formulating strategy in social service and in advocacy and lobbying on important issues such as anti-corruption, governance and consumer protection. As the third sector also participated more and more in advocacy at the local and municipality level, they became involved in the process of participating in and preparing regional and local development strategies, local budgeting systems and in shaping community based services.

In recognition of the progress achieved since 1997, Albania and the EU signed a *Stabilization and Association Agreement in 2006*,¹⁴ essentially opening the way for full EU membership for Albania (3). Although Albania's constitution of 1998 guarantees the rights of freedom of organization to all citizens, and although several hundred civil society organizations have indeed emerged, only a few of these actually possess functioning structures. Even fewer cooperate regularly with the state in order to, help prepare new reform laws for example (4). At the local level too, where ever greater responsibility is being located due to recent decentralization measures, the voluntary involvement of citizens and engagement between civil society and the state remains meagre.

There is a growing sense of trust between the state and civil society. During November and December 2007, the National Strategy for Development and Integration (NSDI) underwent a broad consultation process with participants from parliament, civil society, advisors, business associations, trade unions, academics, judicial court, academics, local government representatives and donors. The consultation process was organized in the form of five roundtables. Of these, three were thematic; one for each priority of the NSDI: EU and NATO integration, Economic and Social Development, Democratization and Rule of Law. Two other workshops were organized with the donor community and civil society, and included representatives of various advisory groups. Civil society groups followed the preparation and ongoing finalization process of the NSDI with interest (14)

Albania is one of eight countries piloting the innovative "One UN" programme. This initiative consolidates a broad range of individual United Nations (UN) programmes within a single strategic framework. The "One

¹⁴ The full text of the Agreement was signed on 12 June 2006, in Luxembourg. It consisted of 135 Articles, 5 Annexes and 6 protocols of (Comission, 2006) Stabilisation and Association Agreement. On the same occasion, an Interim Agreement on trade and trade-related matters between the European Community and the Republic of Albania was signed. The general framework of the Stabilization and Association Agreement is based on four pillars: political dialogue and regional cooperation, trade provisions related to the progressive liberalization of exchanges until the establishment of a free trade area between the parties, community freedoms, and finally, cooperation in priority areas, especially in the area of justice and home affairs.

UN” programme is based on the UN Development Assistance Framework¹⁵ (23) and is guided by various other pre-existing programmes. This includes Albania’s agenda of integration into the EU, the NSDI, programmes of other international and bilateral agencies, as well as the Paris Declaration on Aid Effectiveness (20) The ”One UN” Programme implementation also requires contribution of Albanian civil society through its participation in the Sectoral Working Groups (SWG)¹⁶ and joint programmes in various social economic sectors and this is a strong evidence of the Government and civil society relationship.

Moving the relationship forward; funding and legacy

Since 1991, several changes have been made to the legal framework governing NGOs in order to avoid unclear legal issues regarding NGO operations, as well as to improve the legal environment for NGO development. The Constitution Package, approved in 1991, and served as the legal basis for the registration and operation of the first NGOs in Albania. Under the Constitutional Package, the NGOs and other organizations were defined as judicial persons. The Civil Code (CC) of November 1, 1994 provided an improved legal basis for NGOs through its focused and targeted articles, including 10 for foundations and 14 for associations specifically. However, it was assessed that the CC was characterised by several ambiguities. These were numerous, including several problem areas such as the lack of a clear NGO definition, unclear supervision rights of the state bodies, prevention of NGOs from engaging in economic activities, unclear distinction between activities serving the public benefit and private interest and lastly unclear registration procedures. The CC prevented NGOs from participating in economic activities and charging fees for their services and goods, while tax exemptions for them were totally unclear. Such ambiguities enabled various pyramid schemes to register as foundations, and to exercise their activity outside the control of the relevant state institutions. This had a detrimental impact on the public image of NGOs. As such, the necessity to work towards a new and comprehensive NGO law became an urgent matter. (5)

In close cooperation with the Albanian Office of the Prime Minister, the General Secretariat of the Council of Ministers, the Ministry for European Integration and the Ministry of the Interior, GTZ (15) organized

15 Following a request from the Albanian Government to the United Nations, Albania was selected as one of eight countries around the world to pilot UN efforts to Deliver as One UN in January 2007. Albania’s request to participate as a One UN Pilot country demonstrated its long-standing, strong commitment to UN reform. The Government’s on-going reforms place great emphasis on the coordination and alignment of external assistance and integrating national planning and resource allocation. The One UN pilot falls very much within this broader national effort.

¹⁶ The structure of the SWG is being reorganised to reflect changes into the division of sector strategies and NSDI, as well as to transfer the leading role to Government representatives.

information trips to new EU Member States where differing models of cooperation between the state and civil society applied. This led to a series of roundtable events with representatives from state bodies and civil society, with government ministers also partaking. Regional events, organized jointly by GTZ and the Organisation for Security and Cooperation in Europe (OSCE), have also addressed local level concerns. Participants sought ways to improve cooperation between the state and civil society. Their chosen solution for this was a fund to promote civil society and the creation of a Civil Society Charter. The EU's White Paper on European Governance of 2001 served as the basis for these efforts.

With reliance on articles 78 and 83, point 1 of the Constitution, and on the proposal of the Council of Ministers, the Assembly of the Republic of Albania approved on March, 9, 2009 the Law no.10 093, which established, "the organization and functioning of the Civil Society Support Fund Agency". The Civil Society Support Fund (CSSA)¹⁷ has, as its fundamental mission, the intention to encourage the sustainable development of civil society, as well as the creation of favourable conditions for civic initiatives for the good of, and in the interest of, the public. To accomplish this mission, the CSSA offers financial assistance for programmes that encourage and strengthen the sustainability of non-profit organisations, inter-sector and international cooperation, civic initiatives, philanthropy, volunteerism and democratic institutions of society, as well as other programmes that facilitate the fulfilment of its mission. In exercising and implementing its activities, the CSSA was guided by the strategic priorities of the government for the development of civil society.

In October 2007, the Albanian Government for the first time approved a total budget of 150 million Lekë (around 1 million Euro) for the CSSA , This helped to make an important step towards enhancing relations with civil society actors by providing direct support for CSOs. The total donor commitment within this sector amounted to approximately €20 million (1) for the reporting period, with an approximate disbursement rate of 58%. The largest donor in this sector is the US Government followed by the EC, Germany, Sweden, the Netherlands and the OSCE.

Conclusion

Civil society in Albania, and related institutions, has created the possibility for people to be organized, not only politically but also socially. This has resulted in the public scene being populated and dominated not just by political parties, but by ordinary citizens themselves. For this reason, the status of civil society in Albania is an important indicator of the degree of

¹⁷ The Supervisory Board of the CSSA consists of five members who represent the organisations of civil society and our members who represent the institutions of the central public administration.

democracy in the country. This is naturally considered as a prerequisite for integration into the EU and therefore as an objective which the government must achieve. The state bodies are therefore committed to improve the relationship with civil society, in order to make it possible for both to work more efficiently. While NGOs participate more in governmental events and activities, as compared to government's official participation in civil society, the number of joint projects implemented by NGOs and governmental institutions remain very limited.

The 2009 EU Progress Report for Albania) stated that the legal framework for civil society organizations remains open and non-restrictive. NGOs are actively monitoring adherence of human rights and the fulfilment of Albania's obligations and requirements, stated under the Stabilization and Association Agreement (SAA). However, civic engagement still remains low. Albania has only a limited number of influential NGOs and policy institutes, despite these developments. It will, take several years before significant improvements can be made and will become evident, and challenges will remain, especially for civil society.

Recommendations

The strengthening of civil society, and its involvement in policy-making processes, remain objectives for the government of Albania to accomplish. This needs to be done with an estimated funding of around 2% of the total allocation for Component I¹⁸ under the Multi –annual Indicative Planning Report MIPD 2009-2011¹⁹ A total of €4 million has been earmarked for projects aimed at enhancing the role of civil society and the media in the European integration process over the above mentioned period (6).

Completing reforms to the legislative and regulatory framework for NGOs remains an important objective for Albanian NGOs. The government's challenge is to ensure that the laws and regulations that affect NGOs are approved through a process which is both transparent and which also includes the participation of NGOs. Government officials also need to be trained and guided on how to implement these laws in an appropriate manner.

There is a need to better educate government institutions on the role and mission of NGOs through training sessions for public officials. In addition, a specific department for civil society should be established within government, in order to co-ordinate cooperation between the two sectors.

The focus of this case study is the changing nature of the relationship between the state and civil society. While this relationship remains an

¹⁸ Component I - Transition Assistance and Institution Building is one of the components of the Multi annual Indicative planning report prepared by the Ministry of Finance

¹⁹ Multi –annual Indicative Planning Report (MIPD) 2009-2011 report. www.minfin.gov

important cornerstone in Albania, as in most societies, the analysis of this study is that there is some evidence of – and cause for cautious optimism about - a promising evolution of this relationship.

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