

## **RULE BY LAW AND DEMOCRACY IN ALBANIA**

*Rule by Law characterizes a democracy where "...law is an instrument of government and government is considered above the law<sup>1</sup>".*

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### **One democracy size fits all**

The democracy building in Albania started with the destruction of the communist regime and its institutions. Little attention was paid to any existing valuable social, political and economic building blocks that could have been re-used. No importance was given to the pool from where the new democratic institutions would get the "new democratic blood", neither to its vetting process.

Generally if the change of regime in the Western Balkans was the result of a popular movement, the construction of new democratic institutions was an elite-driven process designed and encouraged by Western democracies. Research in Google with the words "democracy, rule of law, Western Balkans", produces "European Union" in the title of ALL hits of the first page<sup>2</sup>.

### **The democracy checklist**

To keep it efficient, democratization was designed as a result-oriented process with measurable results and tick-boxes for each democratic deliverable. Right-wing political parties were duly created, often with members from old Communist Party as is the case of the former head of Democratic Party. A modern executive arm and a democratically elected parliament were set up with technical assistance from abroad. The old justice system was dismantled and hastily arranged six-months training sessions (in a beach resort) provided the much-needed new judges that would become today the guardians of the rule of law. Similar institution-building techniques were applied to media and civil society.

Simply stated, democracy building in Albania was based on Western design, with its quantifiable objectives, efficient actions and deliverables, focused on what could be done in the shortest of times. Almost all efforts were concentrated in the capital, Tirana. Other courses of action would have been not efficient as there were too many local unknowns and it was difficult to physically access the rest of the country. As a consequence the historical building blocks of the Albanian social capital that define the quality of democracy of a country, were ignored. The family, the community, the village, the city neighborhood, work-based communities, etc. missed the democratization train.

### **Rent-creating democracy**

As a result it was the most opportunistic individuals - not the most democratic or professional - who profited from the opening of this new market in democratic

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<sup>1</sup> UN Chronicle – the Magazine of the United Nations, at <http://unchronicle.un.org/article/rule-law-and-democracy-addressing-gap-between-policies-and-practices/>

<sup>2</sup> search location was Albania.

institution building. They ended by converting the democratically designed institutions into vehicles that served at least in spirit the interest of their new occupants. Today those institutions are proving to be an obstacle to a fully-fledged democratic state, enmeshed in corruption accusations, *clientelism*, and immunity from law (like the current case of a member of High Council of Justice). Citizens got democracy but the new elites got the institutions. Rule of Law was diverted into Rule by Law.

Moreover the ever-reinforcing relationship between politics and business (a quarter of members of Parliament are businessmen) seem to reinforce the public perception of a rent-seeking phenomenon. The elites that “control” the democratic institutions became more equal than the simple citizens. This creates a Potemkin democracy characterized by rule by law, massive transfer of income from citizen to political elites, blurred frontiers amongst politics and business, and the paradox of democratic institutions protecting a flawed system.

### **How to reform a Potemkin democracy?**

This system is doomed to fail in the long term due to inherent miss-allocation of resources and by the unfair and extreme inequality that it produces. Currently Rama government has started the much-delayed institutional reforms but finds itself in front of two big challenges. The first is reforming the institutions against the will of their occupants. The institutional collaboration between the executive, the presidency and the judiciary is blocked. The political dialogue is almost inexistent. Civil society is still a western driven-and-supported concept, and the media is suffering to keep its independence. The other challenge is the very limited replacement options available.

Fortunately, the EU candidate status provides the rails in which the Albanian reform train must advance. Practically it should allow for a technical shift of EU conditionality by moving EU aid from support to institution building towards valorization of local building blocks such as social capital, family, communities, clubs, modern trade unions, etc. At least until the “democratic” institutions have been duly reset by Albanians themselves. They will have to provide the fuel the democracy needs to properly function in their country.

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