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**HUMAN RIGHTS DISCOURSE IN
POST-COMMUNIST ALBANIA**



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ABSTRACT

This paper addresses the transformation of the human rights discourse in post-communist Albania from the early 1990s, during the transition period, to the recent years, which reflect a professionalization of the civil society organizations and a different set of human rights issues. In order to understand the changes in the human rights discourse in Albania, it is useful to scrutinize the late socialist period of the dictatorship and contrast this peculiar Stalinist regime with other countries in the Eastern Europe, which were more innovative in terms of socialist legality, conceptualizations of socialist human rights as well as challenged the assumed socialist framework of human rights through public dissent. This paper uses a qualitative methodology and relies on the analysis of textual evidence to underline the differences and similarities across time regarding the human rights discourse in post-communist Albania. On the other hand, the paper highlights the role of political parties, their programmatic ideas on human rights, and the role of civil society organizations and associations that address and defend human rights in the Albanian society. One of the key findings of the research is that the basis of the human rights discourse in post-communist Albania, particularly after regime change, was created by political parties and not so much by civil society organizations. The second key finding of the paper is that the shift in human rights discourse and its set of issues happens as a consequence of external institutions influence and the so-called professionalization of civil society, which is not simply focusing on the advocacy of human rights.

KEYWORDS: *human rights, post-communism, discourse, political parties, Albania, civil society*

INTRODUCTION

The state socialist dictatorship in Albania was from 1944 to 1985, and to a lesser extent from 1985 to 1990, a Stalinist regime. Representatives of the dictatorship and the Party of Labor of Albania (PLA) claimed that their legitimacy derived from the Second World War and the goal of social revolution. Relying on Stalinist show trials and aiming to eradicate the social classes that dominated the interwar social formation in Albania, such as the landowners

and the bourgeoisie, the state socialist dictatorship interned, executed and imprisoned the so-called 'class enemies' and those who allegedly collaborated with the fascists. Despite the establishment of the Constitution of 1946 and later on the Constitution of 1976, the regime did not develop nor sustain a legalistic strategy of legitimation, based on the concept and practice of socialist legality, which was used extensively in other state socialist dictatorships in Eastern Europe, and to some extent in the Soviet Union. Religious persecution was one of the key features of the communist regime in Albania (Sinishta, 1983). Initially, the regime intended to subdue the religious communities and denominations under its control, but this strategy was not quite successful. Then, in 1967 religious freedom was abolished and Albania was proclaimed not just a secular state but an atheist state. Restrictions to religious freedom were lifted only in the mid-1990s, still prior to the process of regime transition and the establishment of the first democratic opposition parties or civil society organizations. Religious rights constituted one of the elements of the post-communist human rights discourse.

Civil society was repressed. During the state socialist dictatorship there was no substantial and relevant instance of public dissent against the regime. Individuals who harbored 'anti-socialist' ideas, which were articulated in individual diaries or within a closed group of like-minded people, were imprisoned and politically persecuted. Contrary to the collective actions manifested in the state socialist public sphere, via the establishment of independent trade unions, associations of non-socialist intelligentsia, and dissident organizations as it happened in Poland, Czechoslovakia or Hungary, the Albanian case study does not follow the same practice and tradition. At the same time, the state socialist regime of Albania was not a signatory to the Helsinki Accords of 1975. On the other hand, the Ministry of Justice and the practice of defense attorneys were abolished in 1966 (Bregu, 2016, p. 64). Therefore, the absence of collective action and civil society organizations prior to regime change led to conditions in which the ex-communists and the newly established political parties, after the fall of the state socialist dictatorship, were the most vocal actors in supporting and disseminating, if not formulating, the post-communist

human rights discourse in Albania. The civil society associations that focused on the defense of human rights (Abrahams, 1996, p. 7) did not come up with a different type of discourse on human rights compared with the discourse that was formulated by representatives of the political parties. However, these organizations, which were primarily advocacy civil society organizations, understood that they had a different function to perform, compared to political parties, in the emerging civil society of the post-communist Albania.

The structure of the paper includes a methodology section, followed by a separate chapter on the theoretical perspectives related to socialist legality and human rights in East Central Europe. The case-study chapters are divided into two separate sections. One section is focused on the interaction between socialist legality and the state socialist dictatorship's understanding and practice of rights. The other section addresses the emergence and transformation of the human rights discourse after regime change in Albania.

METHODOLOGY

This paper uses a qualitative methodology in order to differentiate between the particular features of the human rights discourse in the case-study of Albania from the standard practices and discursive formation of human rights in other state socialist regimes in East Central Europe. The case study of Albania highlights the role of state socialist legacies and that of the political parties after regime transition. This particular case study also emphasizes the relevance of external actors and discursive frames presented and diffused by international organizations, more so than domestic civil society organizations or associations.

The data that is analyzed in this paper constitutes primary and secondary data as well. The primary data includes official texts related to conceptualizations of human rights and human rights issues, as well as electoral manifestos prepared by the political parties, documents that highlight the importance of human rights. On the other hand, this article makes references to particular texts from the different constitutions. The secondary data includes

expert-based research and articles that scrutinize the set of themes, and issues that have been part of the human rights discourse in post-communist Albania. The data collection has been conditioned by the degree of relevance of the documents and evidence as well as by the availability of the data.

THEORETICAL PERSPECTIVE: SOCIALIST LEGALITY, STATE, AND LINKAGES BETWEEN RIGHTS AND OBLIGATIONS

Albeit the multifaceted dimensions of socialist legality as a concept (Betts, 2012; Antonov & Vovk, 2021; Kopeček, 2019; Szumski, 2020), this concept is defined in this paper as a legal constraint on the arbitrary power of the party and the ruling elite of the socialist dictatorship. More precisely, the appropriate definition is the following: *...a rejection of arbitrary rule in favor of procedural norms and rationalized government* (Betts, 2012, p. 411). To some extent, one could argue that in the case of the state socialist dictatorship in Albania there was no explicit reference to the notion of socialist legality. While in Poland, the social category of legal experts was advising the representatives of the Polish socialist dictatorship to introduce certain legal accountability to state and public office representatives (Szumski, 2020, p. 11), the legal experts in the state socialist regime in Albania did not have sufficient autonomy from the Party and nor were asked to formulate a particular legal legitimation of the regime. Furthermore, the arbitrary power and discretion of the ruling elite and the one-party state did not abate. In Czechoslovakia due to the Prague Spring event and reforms, the concept of socialist legality was even put into question and perceived as not a sufficient bulwark to arbitrary and illegitimate power (Kopeček, 2019).

One of the features of the ideological understanding of rights under state socialism was the interlinkage between rights and obligations, which is not part of the conventional human rights discourse. According to a Stalinist approach on rights, the rights to the Soviet citizens were not conceived

as separate from the obligations that the citizens themselves had on the state and society (Kopeček, 2019, p. 263). More specifically, according to this Stalinist understanding of rights the interaction between the citizen and the state, in a socialist dictatorship, hinged on the primacy of the state. *The Stalinist understanding was markedly collectivist and statist in its stress on society and a state that confers upon individuals basic rights, particularly civil and political rights, in accordance with their involvement in the social political project of building socialism* (Kopeček, 2019, p. 263). This notion of rights, which were granted by the state upon the citizens of a state socialist dictatorship was prevailing in Albania.

On the other hand, the state socialist regimes claimed that civil and political rights were not as relevant and effectively enforceable without the presence of social and economic rights. In fact, this particular claim appeared after the signing of the Helsinki Accords. As Lambelet (year of publication, p. 65) economic and social rights were perceived in the international human rights discourse not as inalienable entitlements but as outcomes of particular welfare policies. Thus, political and civil rights, which were restricted and not acknowledged as proper citizen's rights under state socialism, were not considered on par with the social and economic rights by the democratic regimes globally. The next section shall discuss the state socialist legacy of the discourse on the rights of the citizens of the state socialist dictatorship in Albania and then address the formulations and conceptualization of human rights in post-communist Albania.

SOCIALIST CONCEPTIONS OF RIGHTS DURING THE SOCIALIST DICTATORSHIP IN ALBANIA

This section discusses the legacy of the state socialist understanding of rights, if not human rights, of the citizens during the rule of the communist regime in Albania. The 1976 Constitution which forbade religious freedom and the freedom of conscience stipulated a number of statements regarding the assumed

rights of the citizens. According to Toro, the Constitution of 1976 conceived of the rights of the citizens as mainly rights of the workers (2000, p. 487). Generally speaking, the Constitution of 1976 did stipulate as one of the notions at the basis of recognizing the rights of the citizens was the principle of not discrimination (Toro, 2000, p. 488). Women rights were also acknowledged in the Constitution of 1976, related to the idea of equality between men and women, according to the ideology of the state socialist dictatorship. In the same Constitution, the rights of the citizens were bound with the obligations of the citizens towards the state. Article 39 of the 1976 Constitution, as highlighted by Bregu, stipulated that *The rights and duties of citizens are built on the basis of the reconciliation of the individual interests and of the socialist society, giving priority to the general interest* (2016, p. 64). Article 55 of the Constitution of 1976 forbade freedom of association, freedom of expression and the articulation of ideas that were deemed as ‘anti-socialist’ or ‘anti-regime’. It was precisely this article that prohibited religious freedoms as well.

This particular legacy had an impact in the way the shift from the socialist understanding of rights of the citizens to a proper universalist human rights discourse took place in post-communist Albania. The 1976 Constitution was repealed immediately after regime change and religious freedoms were fully acknowledged. However, the assumed inter-connectedness between rights and obligations was still lingering in the post-communist discourse on human rights in Albania. On the one hand, political parties and representatives of the post-communist ruling elite remained influential in disseminating and formulating a human rights discourse, contrary to the expected role of civil society in this particular realm. On the other hand, after the regime transition political and civil rights were restricted or challenged.

TRANSFORMATION OF THE HUMAN RIGHTS DISCOURSE IN POST-COMMUNIST ALBANIA

The process of regime transition transpired in December 1990, a year after regime change took place in other ex-communist countries in Eastern Europe. External events such as the fall of the Berlin Wall and the ensuing regime change via negotiations or regime breakdowns in Eastern Europe put a lot of pressure on the state socialist dictatorship in Albania to initiate processes of liberalization if not outright regime transition. Prior to regime change and the legalization of the first opposition party, the representatives of the state socialist dictatorship conceded to external pressure to allow religious freedom and freedom of conscience. It is important to mention that at this critical juncture of regime transition, the emerging political parties were crucial in formulating and disseminating a human rights discourse during the post-communist period. Due to the absence of an independent organized civil society and public dissent prior to regime change, the actual role of civil society organizations in the very first years of regime change was limited.

Looking at the political and electoral platform of the PLA (ex-communists) for the first pluralistic elections of March 1991, one notices the same ideological frame of combining rights with obligations. The initial conceptualization of the rights of the citizens reflected the importance granted by the socialist dictatorship to economic and social rights. The reference to the universality of human rights in the official documents prepared by the PLA in 1991 is rather meagre. *It should strive for the creation of such a legal system that can ensure and guarantee human rights and obligations, according to modern European standards and in conformity with official engagements of our country before different international forums and organizations...* (Electoral Program, 1991, p. 2). However, in this first electoral program after regime change, the ex-communists admit the importance of religious freedoms and freedom of conscience: *PLA will fight to be respected freedom of conscience and belief...* (Electoral Program, 1991, p. 2). Another interesting notion that seems to

reflect more the conceptual legacy of socialist legality, is the use of the notion of judicial state instead of the rule of law state. The ex-communists had a very limited understanding of the tradition and practice of the rule of law. *One of the principal objectives of the PLA will be strengthening of juridical state (the rule of law). It commits itself to make a proper and clear-cut distinction and separation between state activity and party one* (Electoral Program, 1991, p. 2). Even the 1992 electoral program of the Socialist Party of Albania (SP), which was established after the 10th Congress of the PLA in June 1991, highlights the same conceptual framework as the previous electoral program. More specifically, the SP argues that democracy implies not simply rights but also obligations: *Democracy means rights but the obligations, as well. It has two aspects inseparable with each other: to be free and also by law responsible to the rights and obligations of others* (Electoral Program, 1992, p. 3).

The opposition's conceptualization of human rights was closer to the universalist understanding of human rights, without associating them as intrinsically linked to obligations. In the electoral program of 1992, the Democratic Party (DP) emphasizes the importance of private property and judicial reform. *We recognize as a legitimate right possible return or compensation in a sum defined by law of property to former owners, unjustly expropriated by the communist regime* (Electoral Program, 1992, p. 1). On the other hand, the DP highlights the full range of human rights that the Albanian citizens were entitled to: *We affirm that every individual has the right to freedom of thought, conscience, religion or belief, freedom of expression, association and peaceful assembly, freedom of movement* (Electoral Program, 1992, p. 17). Yet, the DP uses the same notion, that of the judicial state, as the SP does, without referring to the rule of law tradition.

The majority of the civil society organizations in Albania, during the first decade after regime change, promoted the defense of human rights of the citizens as well as limitations to the arbitrary power of the police, of other bureaucratic institutions and of the government. The first DP's government from 1992 to 1996 did not rule according to the electoral pledges promising the respect of checks and balances and human rights of the Albanian citizens

(see Passini, 2011, p. 1353). In fact, Human Rights Watch organization in its 1996 Report highlighted the infringement of human rights and political and civil rights of the citizens by the government. *Albanian citizens are still plagued by serious human rights violations, such as restrictions on freedom of expression and association, manipulation of the legal system and violence by the police* (Human Rights Watch, 1996, p. 1). The two most important civil society organizations in Albania dealing with human rights were the Forum for the Defense of Human Rights (later renamed the Albanian Helsinki Committee) and the Society for Democratic Culture (Human Rights Watch, 1996, p. 77). The post-communist discourse on human rights was predominantly focused on property restitution, ex-political prisoners, and the safeguarding of human rights of the citizens from the arbitrary power of the government. Issues of domestic violence or the rights of minorities, such as the Roma were not part of the discourse on human rights in Albania. Nowadays, according to Malaj, there is a shift in the human rights discourse compared to the first discursive formations on human rights in post-communist Albania (2018, p. 88).

CONCLUSION

This paper has provided an overview of the transformation of the post-communist discourse on human rights in Albania. In order to address this issue, the paper has relied on qualitative methodology combining analysis of texts with case-study approach and using a historical perspective on these processes. Therefore, understanding the changes in the human rights discourse in post-communist Albania required scrutinizing the socialist conceptualization of rights and how this particular legacy affected the formulation and dissemination of human rights frameworks after regime change in Albania.

One of the key findings of this research is that the domestic dynamics of establishing a human rights discourse in post-communist Albania differs from the political dynamics in Poland, Czechoslovakia, Hungary or other post-communist countries in East Central Europe. The most relevant actors that had created and disseminated the human rights discourse in Albania were not civil society

organizations but political parties pertaining to the political society. The changes in the human rights discourse took place as a consequence of external pressure, international treaties and due to the EU integration processes. Henceforth, nowadays the human rights discourse manifests different set of issues compared to the content of the human rights discourse in the early 1990s in Albania.

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