

HISTORICAL VIEW ON THE CAUSES OF CRIME IN ALBANIA DURING DICTATORSHIP

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Abstract

Historical research on crime and criminal justice is an interdisciplinary field which provides varied information as much as it requires a consultation of different sources, starting from statistics to criminal law and criminal procedure, criminology, penology, criminal policy and eventually, history. Much has been written on criminality in Albania since the fall of the dictatorship in 1991. And the image that emerges is a rather uninspiring one, albeit evolving. But which was the background of Albania prior to becoming this perpetually transitional state? This is a historical study on criminality and crime factors in Albania from the moment communist dictatorship established to its fall in 1991. When statistics are sporadic or lacking completely, two important reference points such as preventive measures and criminal policy come to help with determining the conditioning factors of crime and its trends. The third reference point includes the main theories on the causes of crime, presented here with a critical eye in a quest to discern the ideological infiltrations within the results of the scientific works published at the time. As some of the crimes were obsolete in the context of Albanian society during the dictatorship, our attention is directed towards murders and thefts as the most indicative and recurrent in crime trends. This is where the historical point of view becomes fundamental, as it allows one to objectively take a look back. The goal of this paper is to highlight how the social, economical and organizational factors influenced crime trends in Albania, showcasing the successes and failures of the criminal policies adopted.

Keywords: Albania, causes, crime, historical, dictatorship.

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Brief Overview of Criminal Trends from 1944 to 1991

During dictatorship the publication and distribution of crime rates and other related statistics was punishable under the criminal law as they were considered state secret. This situation is quite similar to the one concerning the years 1920-1944, where the stage of social development and lack of communication rendered almost impossible to have any data concerning crime rates.

The criminal code contained several offenses with an openly politicized character. This was functional to preserving the existing political system. Several dispositions of the 1952 criminal code (Ministria e Drejtësisë, 1952) such as articles 125-128, were related to source savings, basically meaning rationed distribution of goods or of state-owned materials in general. New offenses were introduced such as those against the economic system, against marriage, against family, against justice.

The notion of crime can be analyzed under 3 different perspectives:

- Crime according to the philosophy of law
- Crime according to criminology
- Crime according to criminal law

For the purposes of this study, we will not present the methods and purposes of each of these disciplines but we will refer to the applicability of the criminological method, specifically on political crimes.

According to Kant, freedom is the *ratio essendi* of moral reasoning; it does not consist in being bound by no law, but by laws that are in some sense of one's own making (Johnson, 2012). By acting naturally, man becomes free, but at the same time man acts naturally because he is free; a symbiotic relationship is thus created. It comes spontaneous to consider freedom of will as an important reference point when trying to define what constitutes a free country. What is considered a political crime by an oppressive regime is often considered a legitimate fight to guarantee fundamental human rights in a free country. A consolidated standard which establishes these fundamental rights is the Declaration of Human Rights.

Under this logic, liability cannot exist where freedom of will lacks, therefore political crimes can be such only where this freedom is guaranteed. Any act aiming to overturn the constitutional order of a free country is considered to be a crime under the law made by the people, for the people. However, the same act occurring in a repressive regime is to be considered as a legitimate moment of counteraction towards such repression. It seems quite fair to see a difference between the actions undertaken by the partisans under the Nazi invasion and terrorist acts occurring in a democratic country.

Behaviour is classified as criminal when it deviates from the regulations enacted by the state. For example, a person who is caught listening to a foreign radio station or reading a book declared as propaganda material is punishable under the law, as he has committed a crime. But in a free country, the reading of a book cannot constitute a criminal offense because of the freedom of speech and expression. In this context, political crimes are not to be considered as deviant behaviours when choosing a free country as reference point, for they are a physiological element of dictatorship. Exempting the causes of political crimes in a dictatorship is similar to applying a scientific embargo when choosing the method of study. In case we chose not to do so, the results as to which are the causes of crime in Albania during the 1944-1991 would represent a rather deformed scenario.

As far as the tendencies of crime under dictatorship are concerned, we choose to focus especially on the most common categories of offenses. Because of the high level of supervision guaranteed by the state organs, a drastic decrease of crime rates, especially murders, can be noted in comparison to the pre-communist period. Among other reasons, this was due to total isolation from the outside world, which removed the whole category of international or transnational crimes from the scene. Since these type of crimes need some sort of communication between the agents,

occurring either physically or virtually (for example through banking), denying any access to such exchange impedes the consummation of the offense.

Although murders registered a rather linear development, this cannot be said of thefts. One of the main reasons of harsher punishments provided by the criminal code of 1977 (Shqipëri, 1977) was the big wave of robberies registered in Albania in 1950. During a 20 year period (1960-1980), approximately 25 - 35 murders were registered per year in a population of three million (Papandile, J., & Mandro, I., 2002, p. 76). It seems as though the tough criminal policy along with the changes made to the incrimination process succeeded in their goals.

Toward the 1970s, thefts were almost nonexistent. This lasted until the 1980s, when an increase of thefts, especially of food and other consumer goods, was noted (Hysi, 2005). The reason for this change is to be found in the economized distribution of goods which by that time was almost exclusively of Albanian origin, due to the cease of import-export relations with the People's Republic of China and the Soviet Union.

Blood feuds also registered a decrease. In the 1970s, the rate of this type of murder was almost halved compared to the 30s. They represented only 5-7% of the total homicides registered by courts (Papandile, J., Mandro, I., 2002, *ibid*). It should be noted though that pursuant article 139 of the criminal code of 1952 (Ministria e Drejtësisë, 1952) and article 84 of the criminal code of 1977 (Shqipëri, 1977), murder by blood feud was encompassed under murder by revenge. This was probably an attempt to hide the existence of the phenomenon, at least formally, since jurists persisted on underlining the difference between the two (Elezi, 1983, p. 170). As statistics could not be consulted, Elezi (2000, p. 55) leans over the final sentences of the court to draw conclusions, which although accurate from the legal point of view could not represent the real proportions of murders by blood feud and revenge.

The guidelines of the Supreme Court Plenum ranked high in the pyramid of the legal norms of the country, equalling laws. Thus, all matters concerning the interpretation and implementation of the criminal code were regulated by this chamber, which functioned like a Constitutional Court, if not with more powers usually recognized to such an institution. This organ established in Guideline nr. 7 of February 2, 1955 and Guideline nr.4 of September 5, 1981 that murders by blood feud are not to be considered as occurring in mitigating circumstances, but in aggravated ones (as cited by Elezi, 1983, p. 209). As provided by article 42 (Ministria e Drejtësisë, 1952) and article 84 (Shqipëri, 1977) murder by revenge (including blood feud, A/N) and for other futile motives constituted aggravated murder. Futile motive is actually an elusive term, obsolete under the current Albanian criminal law, used to describe the so-called "crimes of passion". But while in other legal orders this usually indicates murder in mitigating circumstances and consequent milder punishment, it appears to have been quite the contrary under the criminal regulations enacted in 1952 and 1977 in Albania.

In conclusion, during dictatorship a decrease of murders in general and more specifically on those by blood feud was registered. This was due mainly to the measures implemented by the government. This same government, however, was guilty of many crimes committed in the name of the fight against the so-called saboteurs and propagandist persecuted and convicted for attempting to the dictatorship of proletariat or other political crimes which are not object of this criminological study for the reasons presented previously.

Main Theories on the Causes of Crime

The studies undertaken during the dictatorship were pretty uniform in linking the rise of crime with the lack of equality among people - which of course was supposed to be ensured under socialism - and their persistence on applying customary law (Elezi, 1983, p. 111). After the introduction of the 1977 criminal code, civil rights were limited or removed *en bloc*. This created a contradictory environment where fundamental rights such as the right to vote and freedom of speech were recognized by the Constitution, but then again systematically violated by the

authorities. Legal studies in this period flourished, but they were perennially limited by the political ideology which was binding in every study conducted. This ideology was based on the Marxist-Leninist philosophy, advocating class struggle and proletarian dictatorship. These studies had limited sources and so were the conclusions drawn.

According to Elezi (1999, p. 183), during the dictatorship two main categories of crime were recognized:

- Old structures persisting in the collective memory, resumed in the concept of class struggle as an internal factor;
- The surrounding capitalism order, as an external factor.

Setting standards on what constituted causes of crime, Enver Hoxha (1972) in one of his speeches declared:

"The foreign invaders and traitors of the country have encouraged criminality to divide more easily the working people.... When we say that crime in our country has no political and economic basis, it means that socialism as a social system neither creates nor favours them. But even under socialism there are contradictions and negative social phenomena. This is understandable, since the new is born and developed struggling with the old, while the foreign elements and the capitalist-revisionist siege contribute with regard to this." (p. 303-305).

Continuing, Hoxha (1972) lists some examples of how the two categories of causes of crime manifest:

"... The reaction of somebody to injustice or vigilante actions is directly linked to the old psychology set in society, the norms of Kanun and other ethical rules that are part of the backlogged feudal-bourgeois ideology. Conservatism, as one of the solid wastes of the past, appears in many criminal acts commuted by the fight against women's full emancipation and their rise into power. ... From the judicial practice and investigation, it appears that the sense of private property is a strong poison to the consciousness of people pushing them in enmity, quarrels, insults, in some cases, even murder, disturbing the unity of the family, of the neighbourhood and that of the society." (p. 312).

These citations present briefly the guidelines dictating the conclusions of any study conducted by scholars or reports presented by state organs on the causes of crime in Albania as presented by Elezi (1973), Begeja (1976), Çela (1989), and Hoxha (1988), just to name a few. Besides scholars, thoughts on criminality were given also by state organs. At the 3rd Conference of Public Prosecutors on the criminal justice system, it was concluded that there had been an increase in economic crimes. The causes for such an increase were identified in the unethical administration and use of public property. These types of offenses were usually charged on special subjects, namely those who administered or used the state property abusively (Shqipëri, 1949). A year later, this same organ (Shqipëri, 1950) continued to deliver on the causes of crimes under the newly adopted system of distribution of goods, pointing out that these offenses were due not only to the greed of some rural workers aiming to profit but also that of the sabotaging activity of the kulaks as a manifestation of class struggle.

In conclusion, the academic thought under communism suffered major restrictions before and after coming to light, delivering therefore biased results on the real causes of crime.

Characteristics of the Preventive Measures Adopted in the Penal Legislation

The main goals set by the government were to restrict and oppress. This was achieved by providing harsher punishments for criminals, carrying out arbitrary trials and perpetrating violence throughout the investigative process. The regulations adopted were justified as protecting the interest of the workers (citizens, A/N.), but in reality they were functional to the social, economical and political order established by the governing class. Article 1 of the 1977 criminal code describes

the duties of the criminal legislation which serves as "...an important weapon of the proletariat dictatorship in the class struggle" to follow on article 2 "criminal legislation is ruled by the Party of Labour of Albania and is based in the working class ideology and in Marxism-Leninism." (Shqipëri, 1977).

A considerable number of the acts adopted during this period were in blatant violation of human rights. Such was Law nr. 372 of December 12, 1946 "On crimes against the people and the state" which condemned:

"Any act aiming to overthrow by force or to jeopardize the integrity of the state or the fundamental democratic, political, national and economic principles of the National Liberation War which are: the democratic organization of the state, equality and brotherhood of citizens and popular sovereignty." (as cited by Elezi, 1998, p. 83).

Other acts violating human rights were Law nr. 135 of November 5, 1945 "On the confiscation of property of the collaborators of the enemy" which followed Law nr. 25 of December 15, 1944 "On the confiscation of property of the political fugitives" (Elezi, *ibid*, p.79, 81).

The legislative, executive and judicial powers were not separated. The guidelines of the Plenum of the Supreme Court were binding for the courts, despite the eventuality they were incompatible with any legal act or they exceeded the competences of the Supreme Court (Elezi, 1998, p. 96-98). Moreover these decisions were extremely exposed to political pressure, since they were dependent on the state-party directions. As provided in article 17 of the criminal code of 1977 (Shqipëri, 1977), the primary punishments for crimes were death, imprisonment and re-education through labour. The punishments for contraventions included social reprobation, fine, re-education through labour and imprisonment. The same article lists also the ancillary penalties such as removal of distinctions, prohibition to exercise a craft or profession, removal of the right to vote, deportation, and eviction.

Another important characteristic of the criminal legislation of this period is that previous legal dispositions were still relevant, albeit with limited application. Up until 1948, the provisions of the criminal code of 1928 were functioning as a fill-in in presence of legal vacuums, whenever they did not clash with the legal acts of the "popular sovereignty" (Shqipëria, 1948).

The provisions of the criminal code of 1977 changed the criminal law introducing harder punishments for the offenses. According to Elezi (1998, p. 96) this was seen especially on:

- The changes introduced on the definition of agitation and propaganda, defined as:
"Fascistic, anti-democratic, religious, war-inducing, anti-socialist acts; (such as, A/N) the preparation, distribution or conservation of any literature of this content, aiming to undermine or weaken the state of proletariat dictatorship." (Article 55).
- A broadening of the definition of sabotage and crimes against the state as described by articles 53 and 47 of the criminal code. When these acts were committed towards socialist countries, they were considered as crimes against the Popular Republic of Albania and therefore liable under the criminal code pursuant article 60.
- The death penalty was extended to 33 crimes, compared to 31 of the 1952 criminal code.
- Removal of the prescription period for the criminal prosecution and execution of punishment for crimes, applicable only for contraventions.
- Removal of the principle *nullum crimen, nulla poena sine lege*.

Moving forward on to the criminal code of 1988, death penalty was removed as a primary punishment from several crimes, implementing a decriminalization policy. According to Elezi (1998, p. 100), at this time many death penalties, including those for agitation and propaganda, were not executed despite being sentenced. Moreover, death penalty was not applied to any person who was either 18 years old or pregnant at the time the crime was committed.

The control exerted by the state was more similar to supervision, as it was capillary rather than central. It functioned through people spying and reporting on each other. Organs such as

neighbourhood councils, placed between the controlling state and the controlled people, provided settlements of disputes. Apart from the classic courts, city courts, town courts and neighbourhood courts were established and vested with a specific jurisdiction, free not to follow any criminal procedure rules. These usually settled civil disputes or punished minor criminal offenses by exercising social pressure, using the influence of the community and finally by advocating obedience rather than by coercion (Baboçi, 1989, p. 47). Another of their duties was to submit reports to the Party Organizations and Popular Councils which acted as superior organs and delivered the measures for the prevention of crime to be adopted. Quite ironically, this extended control of the state over the population did create a sense of security and trust in the capabilities of the government and its organs to combat crime.

Educative preventive measures were particularly successful. Part of the success was due to the indoctrinating method adopted for their implementation. New schools opened in towns, mandatory middle school was established and the attendance of high school and higher studies was encouraged. As noted by Elezi (1973, p. 41) no graduated subject was charged for murder whereas those with a high school degree had a minor incidence overall. With the limitations mentioned before, criminological studies were published and campaigns of awareness on the problem of criminality were conducted among the population.

Social preventive measures can be tracked down on the major influence public opinion held in the way life was conducted. This influence, or better put, this pressure, manifested also in an organized form, through the neighbourhood councils which frequently violated the privacy in order to preserve "good morals" in society. The same applied to the women and youth forums, organizations and associations which were emblematic of that sense of community participation installed in the Albanians' mindset, contributing to the prevention and fight against crime. Job availability was higher because of the organizational measures adopted by the government, although much relied upon volunteer work. Based on these steps, the civilization process was successful.

Organizational preventive measures registered a major boost. Important public works were conducted, including the completion of the electricity network in 1975. Road construction improved communication between the different areas in Albania and state-owned companies provided work, becoming at a certain point the only providers of goods and materials for the population. This occurred after Albania cut off its relations with the Soviet Union in 1961 (Elsie, 2010, p. lxiii-lxiv) and later with the People's Republic of China in 1978 (Elsie, *ibid*, p. 80-81) making it no longer possible to depend on any aid or loan as previously granted by these partners. New schools were built providing education in all areas, even the most remote ones, eradicating the inherited problem of illiteracy. In conclusion, anything concerning the structure of the state, the organs of the judicial, legislative and executive branches was implemented from scratch, albeit with the relevant limitations dictated by the regime.

Economic preventive measures stalled in comparison to other types of measures. A state-owned centralized economy was adopted in the name of financial equality and class struggle. It carried on for decades with the justification of removing any difference among the citizens but it actually doomed the economic system itself. It is safe to assume that if the government fails to guarantee welfare to its citizens or at least a basic stability in the midst of the normal fluctuations of an economy, then this government is susceptible to any challenge, be it legitimate or not. Albania was not able to integrate capitalistic elements into its socialist economic system, although all the internal and external indicators seemed to suggest it would have been the sound choice to make. Instead, it retreated in its own isolation, carrying on an economy which could not provide for the most basic needs and bore no chance of development. Indeed it was the economic collapse that brought forth a general destabilisation of the country, which climaxed with the events of the year 1991 that would bring new beginnings, including new types of crime.

Suggestions and recommendations

The conditioning factors of crime are pretty much detected nowadays by criminology but how they gain or lose impact with regards to crime trends remains a complex variable. With this study, which bears no presumption to be exhaustive, we tried to detect which factors were preponderant in two subsequent periods, that preceding the Liberation and that prior to the fall of the communist regime in 1991. Both of these periods are marked by isolation and violation of human rights perpetrated by the regime. Crime factors such as low levels of education and of civilization, missing infrastructure and fragile law enforcement system were mitigated, if not surpassed at all during the 1944-1991 period, marking an important achievement. However, the economic factor seems to have preserved its crucial status with regards to conditioning crime rates as directly linked to any actual or future preventive measure, be it educational, social or organizational.

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