

# **Stateness before democracy? A theoretical perspective for centrality of stateness in the democratization process: The case of Albania**

Gerti SQAPI\*

## **Abstract**

*The aim of this paper is to explore the connection between stateness (and its constituent attributes) and democracy by conceiving the effective state as an independent variable and a prerequisite for the success of a well-functioning democracy. Such a conditioning relationship between the state and the regime has often been subject to being neglected among many scholars of democratization<sup>1</sup>, who have not considered the state as an important explanatory or at least obstructive variable for the success of democratization. This paper argues that the existence of an effective and legitimate state is essential to build a well-functioning democracy. Herein, the variable of stateness is analysed in terms of four attributes: that of monopoly on the legitimate use of force; citizenship agreement; infrastructure capacity of the state; and law enforcement capacity.*

*Keywords:* stateness, democracy, citizenship agreement, infrastructure capacity of the state, law enforcement capacity

## **Introduction and definition of terms**

The existence of an effective state or stateness, as we will often refer to in this paper, implies the legitimacy of the state recognized by the demos that it has in its composition and its capacity to exercise its fundamental functions. Herein, we define the overarching concept of stateness as the state's capacity to impose law and order within its territory, to construct and implement policies, and to claim legitimacy as a

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\* Gerti SQAPI is lecturer at the European University of Tirana, Albania; e-mail: gerti.sqapi@uet.edu.al.

<sup>1</sup> cf. Mueller, J. (1996), Democracy, Capitalism, and the End of Transition, in: Mandelbaum, M. *Postcommunism*, New York: Council on Foreign Relations; Carothers, T. (2002), The End of the Transition Paradigm, *Journal of Democracy*, 13(1); O'Donnell, G. (2014), In Partial Defense of an Evanescent Paradigm, *Journal of Democracy*, 13(3); Sqapi, G. (2014), *Transitional Paradigm as an Explanation for the Democratization Processes*, CBU International Conference Proceedings, Prague, Czech Republic.

political unit (Andersen *et al.*, 2014, pp.1207-1208). In the theoretical part of this paper on the explanation of democratization, stateness is dealt with as a conceptual (independent) variable and it is a concretization of structures (objective conditions which lie in a certain setting) in different societies. In this sense, as Nettl has also suggested in his pioneer essay „*The State as a Conceptual Variable*”, the state “can be made into an operating variable that points up significant differences and discontinuities between societies, making possible systematically qualitative or even quantitative distinctions...” between them (Nettl, 1968, p. 562). Thus, the state can be treated as a variable which highlights or reflects different empirical realities, making it possible to identify the differences between them. In this paper, the State variable is analysed in terms of four attributes, namely: *monopoly on the legitimate use of force; citizenship agreement; infrastructure capacity of the state; and law enforcement capacity*. In the analysis done here on State as an independent variable, these attributes are not to be taken as integrated with each other, precisely to give them the possibility to theorize and investigate the impact that each of them has on the dependent variable (establishment of a consolidated democracy).

We will define democracy here as a system of government which is characterized by meaningful and extensive competition among individuals and organized groups for all effective positions of government power at regular intervals and excluding use of force; a “highly” inclusive level of political participation (so that no major social group is excluded) in the selection of leaders and political liberties is guaranteed; and where, through the rule of law principle, the civil liberties of citizens and horizontal dimensions of accountability within the powers of regime are ensured<sup>2</sup>. It should be emphasized that such a definition of democracy offered herein is not a maximalist or substantial conception of democracy, as it does not carry a meaning which also includes the democratic values and social rights of a democratic citizen, or which reduces the various obstacles of their participation. The significance held forth in this paper on democracy is a more complete definition of the package of conditions offered by Robert A. Dahl (1982), including the dimension of liberal constitutionalism and the rule of law. This is a vital dimension for democracy as a political system, as it carries in itself the institutionalization of the civil rights and the rule of law principle, which protects individuals from violations or acts of various state agencies against their freedom. To put it simply, the rule of law is understood as containment and limitation of the exercise of state power; it is a system (democratic one) also characterized by the fact that there is no power in the state nor in the regime (nor, for that matter, in society) that is *de legibus solutus* (O’Donnell, 2001, p. 47). This principle is essential for the existence and guarantee

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<sup>2</sup> A rather similar (but not identical) definition of democracy has been provided by Larry Diamond and Juan J. Linz (authors) and Seymour Martin Lipset (ed.), “*Politics in Developing Countries: Comparing Experiences with Democracy*”, Boulder, Colorado: Lynne Rienner Publisher (1990), p. 6-7.

of civil rights of individuals, in that no person, institution or state agency can violate them. Likewise, the principle of the rule of law, on the other hand, also makes the horizontal dimension of accountability in a democratic system possible, which complements and effectively guarantees the package of election conditions and democratic participation set by Robert A. Dahl.

## 1. Methodological approach

As we have emphasized so far, the main aim in this paper is to provide a theoretical perspective, based on the theoretical insights of the main authors in the field, to highlight the essential role of stateness and its constituent attributes in the process of democratization of countries with emerging democracies. The theoretical perspectives offered here can be characterized as structural, as the independent variable of the study (stateness and its constituent attributes) itself constitutes a structural factor. In the theoretical part of this paper (part III), a structural analysis is undertaken: specifically, the examination of various attributes that constitute the (independent) variable of stateness to find their correlations and relative importance in the constitution and explanation of the dependent variable of the study: the achievement or not of a well-functioning democracy.

With regard to the attributes of the State variable, the relevant metering indicators and the data sources for their analysis are as follows. The four attributes of the State variable mentioned above are: 1. *Monopoly on the legitimate use of force* (which includes political stability and public order); 2. *Citizenship agreement*; 3. *Infrastructure capacity of the state*; and 4. *Law enforcement capacity*. In part IV of this paper, which deals with the case of Albania, the data for the measurement of the indicators of these attributes will be considered as follows: for the first two attributes, the indicators data on the monopoly on the use of force and that of state identity by *Bertelsmann Transformation Index* will be taken into account; for the measurement of the state's infrastructural capacity, the indicators of governance effectiveness data and control of corruption by *Worldwide Governance Indicators* will be used; meanwhile for the last attribute, that of law enforcement capacity, law enforcement indicator data will be used, once again by *Worldwide Governance Indicators*.

The case of Albanian democratization over the period 1991-2017 will constitute the empirical case where the theoretical perspective of this study will be applied. Albania is taken here as a representative and perhaps even prominent example of the former communist countries of Eastern Europe, where the democratization process, nearly three decades after its beginning, has not been successful, in the sense that it has failed to consolidate and institutionalize democracy. Moreover, in the case of Albania, different historical factors and circumstances as well as the experience of a more severe totalitarian/communist dictatorship compared to other Eastern European countries have affected the weakness of the structural condition of stateness in its environment and have

overwhelmingly identified them as a constraining (conditional) factor for achieving a well-functioning democracy.

## 2. Relationship between stateness and democratization

We have mentioned so far that, in the analysis of stateness as an independent variable, its constituent attributes are not to be taken as integrated with each other since we thus allow the possibility of theorization and investigation of each of them in the dependent variables of this paper: success in achieving a well-functioning democracy. Based on these attributes of stateness, we also develop the theoretical analysis of the role of stateness as conditional for achieving a well-functioning democracy in a certain country.

1. Now let us focus on the first attribute of stateness, *the monopoly on the legitimate use of force*, and the effect it has on the success of democracy as a governance system. In a direct sense, this first constituent attribute of stateness is related with the internal political stability and the guarantee of the exercise of state authority throughout its territory. This is a prerequisite condition, a *sine qua non*, for the guarantee of either initial development or stabilization/ consolidation of a democratic regime. As mentioned above, when we provide a practical definition of democracy and its constituent attributes, democracy is a system of governance where citizens have rights (electoral, political, civil) which are protected and guaranteed. As Linz and Stepan have emphasized, “to protect the rights of its citizens and to deliver the other basic services that citizens demand, a democratic government needs to be able to exercise effectively its claim to the monopoly of the legitimate use of force in the territory” (Linz and Stepan, 1996, p. 11). Democracy, therefore, constitutes a certain order based on the protection of freedoms and rights of citizens, which can only be effectively guaranteed under the conditions of an effective state, which owns the monopoly of the legitimate use of the means of violence and de facto, the ability to make all its subjects/citizens agree or behave according to the rules. The political and civil rights that democracy implies cannot be effective or sustainable if they are not supported by the power of state officials. In those countries which are known as weak, ineffective, or in those which practice insufficiently the capacity to exercise the monopoly on the legitimate use of means of violence in many parts of their territory, citizens cannot be effectively guaranteed the protection of their rights. So if we take the example of many African countries, where control capacities of the states are too weak or even collapsing (e.g.: Somalia, Sierra Leone, Rwanda during the ‘90s), and where various illegal groups dominate or govern through their customary norms, thus replacing the state’s authority, then to no extent can we talk either about the protection or the guarantee of the civil or political rights that democracy implies, and nor can we particularly talk about the possible development of a democratic regime.

A functioning state with the effective capacity to control the territory and guarantee public internal order is a precondition for successful democratization. We may quote Robert A. Dahl: “in the absence of a state, highly undesirable forms of coercion would probably persist” (Andersen *et al.*, 2014, p. 1203). It is the existence of such a binding authority with the effective capacity to master the monopoly of the legitimate use of force within its territory, along with the implementation of a certain legal system, which makes democratic governance possible. Thus, seen in this first constituent attribute, the State is an essential and necessary instrument for the guarantee and stability of the democratic political regime.

2. Here, we come with the assessment of the importance of another constituent attribute of stateness, *citizenship agreement*, which essentially deals with the issue of legitimacy and the integrative potential of the state. The citizenship agreement can be defined as the absence of “profound differences about the territorial boundaries of the political community’s state and profound differences as to who has the right of citizenship in that state” (Linz and Stepan, 1996, p. 16; Andersen *et al.*, 2014, p. 1207). This is also a basic and indispensable condition for the unfolding of the democratization process in a country, which essentially includes the idea that people within a given territory accept the supremacy of a state (the political authority which claims their obedience in a legitimate way) and communion with other citizens. The attribute of citizenship agreement is an essential component of stateness, which has gained a greater sensitivity and importance from the theoretical point of view of various authors over the last decades, as a key factor which directly conditions the outcome of the democratization process. In 1970, Rustow argued that “the vast majority of citizens in a democracy-to-be must have no doubt or mental reservations as to which political community they belong to” and in order for democracy to work, “the boundaries [of a country] must endure and the composition of the citizenry be continuous” (Rustow, 1970, pp. 350-351). Thus, for Rustow, the clearly and unquestioned borders of the state territory and the full agreement of who constitutes its political community are „prerequisites for democracy” and must be achieved before the process of democratization unfolds in a certain polity.

Linz and Stepan have claimed the same, emphasizing that: “the criteria of the democratic process presuppose the rightfulness of the unit itself. If the unit itself is not [considered] proper or rightful – if its scope or domain is not justifiable – then it cannot be made rightful simply by democratic procedures” (Linz and Stepan, 1996, p. 26). For Linz and Stepan, the legitimacy of the political unit (the territorial extent of the state and who should be included in its political community) by the members who constitute it precedes the process of establishing democratic institutions, and cannot merely be a consequence of it. And this because, as the authors argue, the very definition of democracy includes agreements by the citizens of a territory on the procedures to be used to generate a government that can make legitimate claims on their obedience. Therefore, if a significant group of people does not accept claims

on its obedience as legitimate, because the people do not want to be a part of the political unit, however democratically it is constituted, this represents a serious problem for democratic transition and even more serious problems for democratic consolidation (Linz and Stepan, 1996, p. 27). So, the issue here is that democracy basically requires the acceptance and legitimacy of the demos for the leaders that they choose and the rules of the game that exist in politics but, before all that happens, the legitimacy of the political entity itself must be recognized and citizens must know and respect its prerogatives and boundaries. The problem of stateness, defined here in relation to the attribute of citizenship agreement – with a profound difference between the territorial boundaries of the political community and who is entitled to the citizenship in that state - is a prominent problem that has affected many countries in Eastern Europe, the former Soviet Republics, or African countries where the challenges of competitive nationalisms or ethnic groups that fight each other within the territorial State, questioning its legitimacy, directly affect the possibilities of building democracy in their environments. In relation to this, Jack Snyder has argued by saying that the democratization in the contexts of countries where the legitimacy of the state (political entity) as such and the boundaries of membership in the political community are questioned by a good part of citizens that are part of it creates “fertile conditions for nationalism and ethnic conflict” that may “redirect popular political participation into a lengthy antidemocratic detour” and that such “premature, out-of-sequence attempts to democratize . . . may make subsequent efforts to democratize more difficult and more violent than they would otherwise be” (Mazucca and Munck, 2014, p. 1229).

With regard to this important dimension of stateness - *citizenship agreement* - and its impact on the process of democratization, a conceptual clarification must be made. Herein, the citizenship agreement is not defined and is not assumed in terms of the existence or not of a genuine national identity that may or may not exist in a particular country. “Citizenship agreement does not necessarily equal a strong national identity, old or new, just as state does not equal nation” (Andersen *et al.*, 2014, pp. 1209-1210). Substantially, the citizenship agreement assumed here has to do with the issue of the state’s legitimacy (of the exercise of state power) in a certain known territory (thus, approved) as such by the demos which compose it, and with its integrative potential. So, the idea of a nation-state or a strong national identity is not necessarily a condition for unfolding the democratization process or for the well-functioning of a democratic regime. Even in the contexts where “a state nation is multicultural and sometimes even has significant multinational components, it still manages to engender strong identification and loyalty from its citizens, typically through political integration” (Andersen *et al.*, 2014, p. 1210). The most prominent examples of these cases to be mentioned are Belgium, Canada and Switzerland, which despite the diverse ethnicities in their composition, have come to successfully manage this stateness attribute (citizenship agreement), and have well-functioning democracies within their states. Likewise, the same may be asserted on Spain where,

despite having faced various difficulties with the competitive nationalisms of the Catalan and Basque minorities within the country, “the legitimacy of Spanish stateness was managed with reasonable success” (Linz and Stepan, 1996, p. 17).

3. Another vital element of stateness, analysed in this paper in order to build the variable of an effective state and the impact it has on conditioning the success or failure of the democratization process, is related to the *state's infrastructural capacity*. The infrastructural capacity mentioned here is basically related to the administrative efficiency of the state - and we can define it as the existence of an effective state apparatus (or a set of bureaucracies) capable of discharging their duties with reasonable efficacy, establish lawfulness efficiently and with state agencies' decisions normally oriented in terms of some conception of the public good (O'Donnell, 1993, p. 1357). Such a definition, given on the state's infrastructural capacity, has nothing to do with the size of the state bureaucratic apparatus that may exist in different countries. As O'Donnell instates, “a strong state, irrespective of the size of its bureaucracies, is one that effectively establishes that legality and that is not perceived by most of population as just an arena for the pursuit of particularistic interests” (O'Donnell, 1993, p. 1358). And here, it is argued that such an attribute of stateness, given in terms of the capacity of state structures to effectively carry out their duties and govern through legal means across the whole territory is essential for the functioning of democracy, since only through that, the institutionalization of the full electoral, political rights, and rule of law principle can be guaranteed. As Chang and Bratton have summarized, when they describe this attribute of stateness as a necessary condition for democracy: “democratization requires a set of state structures that enforce law and order, respect human rights, respond to popular demands, govern by constitutional means, and control official corruption” (Bratton and Chang, 2006, pp. 1076-1077). Thus, a well-functioning and institutionalized democracy can only appear in settings where the state's infrastructural capacity is effective.

States with ineffective apparatuses, poorly managed states or states which only respond to the needs of a few almost inevitably experience corruption, faulty application of the law, the privatization of power and low-intensity citizenship (Grugel, 2002, p. 83). The lack of effective state agencies, their underdeveloped infrastructural capacities, or the control that these agencies exert in their actions in performing public roles by following universalistic rules and oriented towards the public good undermine the rules of the game of democracy, often giving those in power an advantage over their opposition challengers. That is because the mode of functioning of these state agencies often wipes away the distinction that must exist between the private and public spheres (to which these agencies are supposed to perform), between informal and formal rules, thus sanctioning ineffective lawfulness throughout the territory (not to say even non-existent in many cases) and undermining the institutionalization of democracy. As O'Donnell has argued, states

with “weaker bureaucracies then create (or reinforce) systems of local power which tend to reach extremes of violent, personalistic rule – patrimonia, even sultanistic – open to all sorts of violent and arbitrary practices. In many emerging democracies, the effectiveness of a national order embodied in the law and the authority of the state fades off as soon as we leave the national urban centers” (O’Donnell, 1993, p. 1358). Referring to the cases of many countries in Latin America, the author outlines this argument further, regarding the crisis of the state’s infrastructural capacity and its negative impact on their democratization process. O’Donnell notes:

“Consider those regions where the local powers (both those formally public as well as *de facto*) establish power circuits that operate according to rules which are inconsistent, if not antagonistic, with the law that supposedly regulates the national territory. These are systems of private power (or, better, of privatized power, since some of the main actors hold state positions), where some rights and guarantees of democratic legality have close to nil effectiveness” (O’Donnell, 1993, p. 1359).

In other words, in those countries where state structures or mechanisms in which patrimonialism, personalism, clientelism, corruption or the pursuit of particularistic interests by those who rule them prevail, the effectiveness of sanctioning lawfulness is compromised, and so are the norms, procedures and the democraticness of the political process, which are all directly threatened in those settings. That is because the phenomenon of capturing state structures, or the use of public administration as a patronage source in favour of pursuing particularistic goals (e.g., for electoral advantage) by those in power, undermines inherently the legitimacy of these institutions, thus preventing the standardization and depersonalization in following the rules and practices of the game implied by a democratic system. So, for example, if we take the case of elections or electoral rights which are a key pillar on which a democratic system is established, the combination of their institutionalization (as a formal rule) in a certain setting, together with the patronage, the pursuit of particularistic interests or other informal rules (operating outside and contradicting formal rules and practices, and so with the law) makes the democratic competition invalid in itself, and not to say even ineffective in many other cases. Inasmuch as a democratic system is, by definition, one in which parties and candidates compete for office under equality of conditions, the ability of incumbents to rely on patronage to gain the support of voters, that is, the use of public resources for partisan advantage, directly threatens the democraticness of a political process (Mazzuca and Munck, 2014, p. 1235; O’Donnell, 1996, p. 44). In this case, as Peter Evans (1995) has argued, “the state ceases to be an “embedded autonomy” by the political actors holding these state positions. The use of state structures for their own political or economic gains by accessing their resources has helped to fragmentize or even delegitimize these structures, thus causing a weak and inefficient stateness in their settings.



Herein, in some way, we may reconsider one of the main arguments that has been stated by different (structuralists) authors within the approach of historical sociology, perhaps Theda Skocpol, above all, who states that: “state autonomy and state (infrastructural) capacity are considered as some of the most important explanatory variables in the analysis of political changes, including the emergence of the rule of law (or lack thereof)” (Skocpol, 1985, p. 9; Gelman, 2004, p. 1024). This way, structuralist authors see the state and its constituent structures (and their autonomy in the face of various political constellations) as important factors in understanding the conditions for democracy.

The shape of state structures and their relations to other power concentrations are therefore a (second) cluster of conditions shaping the chances of democracy (Rueschemeyer *et al.*, 1992, p. 1246). Thus, if in the past (one or two centuries ago), the autonomy of the state and its structures could be affected by the fact that they could simply reflect the structure of the domination of a particular class or group within their society (e.g., capitalist class), nowadays, in many new democracies, the autonomy and capacity of state structures are threatened by political actors who usurp them, govern them in a form of privatized power/domination, in pursuit of their narrow, particularist interests etc. In this respect, Peter Evans’s argument above can be understood when he states that “the state ceases to be an “embedded autonomy”. Meanwhile, according to various structuralist authors, the factors that may determine the development of state autonomy in the face of such forces, consist of the special historical conditions of each country, including tradition, culture, ideology, and so on. Jean Grugel notes this when she states: “The way the state behaves after transition, then, is dependent at least as much on the weight of the past as it is on the imperative for change. The past continues to shape the culture, legality, composition, direction and ideology of the state” (Grugel, 2002, p. 85).

Thus, the past together with previous authoritarian or non-democratic cultures in different societies, continue to have an impact on shaping state structures and on the way of functioning in their own countries, thus hindering the chances for the consolidation of democracy. O’Donnell also gives this statement when outlining his analysis: “states are interwoven in complex and different ways with their respective societies. This embeddedness means that the characteristics of each state and of each society heavily influence the characteristics of what democracy will be likely (if at all) to consolidate – or merely endure or eventually break down” (O’Donnell, 1993, p.1356). The social relations system, together with the absence or not of previous state-building traditions, greatly impedes the development of infrastructural capacities of states in different settings, thus also posing serious obstacles to the functioning of democracy. Grugel also states this when she refers to examples of cases in Latin American countries. In these countries, “the traditions of delegation and machismo continue uninterrupted. Across the region, this tradition hinders the consolidation of democracy and stunts the development of the state by concentrating power in the hands of one person. It also upholds cultures of deference, restricted

contestation and patrimonial state–society relations. Nevertheless, it is hard to imagine radical change because these cultures are deeply embedded within elites and societies alike” (Grugel, 2002, p. 86). Likewise, even most post-communist countries have faced crises and deficits in building effective state structures as a result of inheritance and domination of informal practices and structures (such as patrimonialism, clientelism, corruption, politicization of state mechanisms, „state-capture”), which continue to be present even nowadays, and often constitute the main sources for their elites/political actors to compete for power. This has led to the failure of the process of democratization in these countries as long as state structures do not effectively sanction legality in their milieus, defacing the distinction that needs to exist between private and public sphere (i.e., supposed to be oriented towards their actions in the performance of public roles by pursuing universalistic rules and towards the public good), violating the political and civil rights of citizens, and undermining the democraticness of a fair political process between the competitive parties, thus making the democratic competition ineffective among them.

4. The last attribute, but not least important, which is taken for the construction of the State variable, has to do with the *law enforcement capacity*. The attribute of law enforcement taken into account here, in essence, as well as the state’s infrastructural capacity mentioned above, also has to do with the efficiency and administrative performance of the state and its constituent structures, but does not necessarily have to be confused or overlap with its infrastructural capacity. Herein, we refer to the law enforcement capacity as the extent to which the rules, contracts and laws of a country are enforced by state institutions, particularly by the police and the courts, as well as the possibility of the occurrence of crime and violence in society. As mentioned above, the law is an important constituent component of the state and of the order it places and guarantees over a certain territory. So, the law is to be considered as an integral and determinative part of stateness. As Guillermo O’Donnell has also pointed out, “the law (including the habituation patterns that the exception of its regular enforcement leads to) is a constitutive element of the state: it is “part” of the state which provides the regular, underlying texturing of the social order existing over a giving territory” (O’Donnell, 1993, p. 1357). Thus, sanctioning and enforcing the law is an important and irreducible component of stateness which conditions the success of a consolidated democracy.

A successful democratization requires state structures, particularly institutions such as the police and courts, to effectively sanction law enforcements and contracts in a society, as well as in the various functional relationships of its members. The enforcement capacity of the law of various state structures greatly conditions the type or quality of democracy that appears in a specific country. This attribute of stateness, the enforcement capacity of the law, is also one of the main pillars on which democracy is based and stands. The “legal system (and the enforcement of the law) that guarantees the effectiveness of rights and guarantees that individuals and

groups can uphold against the rulers, the state apparatus, and others at the top of the exerting social and political hierarchy” (O’Donnell, 1993, p. 1360). A democratic system inherently presupposes the existence of civil and political rights of citizens in the polity, and the effective guarantee of these rights by various state agencies. Unlike an authoritarian system, where the implementation of laws and rights of citizens is ineffective, or laws may often be subject to cancellation or arbitrary action by various state agencies, democracy requires public authorities to adhere and apply them according to established procedures, whether they are in conflict with other public authorities or not. Thus, in a democratic system, only the effective implementation of the laws adopted by various state agencies guarantees the effectiveness of the civil and political rights of citizens and various groups that are part of a polity.

If legality, law or order enforcement by various state agencies is not effective, or is widespread in a disorderly manner (selective application) rather than across the entire territory where the state rules, then this also affects the type or quality of democracy that appears in a particular country. O’Donnell points this out when he says that, “a state that is unable to enforce its legality supports a democracy of low-intensity citizenship” (O’Donnell, 1993, p. 1361). In these flawed democracies, or those which continue to last endlessly as not consolidated democracies, some of the political rights of citizens are respected (e.g., individuals can be guaranteed the right to vote, to express freely, to participate in or join different organizations, etc.); however, other rights may be systematically violated by non-implementation or by the ineffectiveness of state agencies to act according to the law. Thus, for example, in many hybrid regimes or in democracies that continue to function with great deficiencies, the electoral and political rights of participants in the polyarchy package are respected, but the liberal constitutionalism and rule of law components are constantly violated. Just as O’Donnell has described: “A situation in which one can vote freely and have one’s vote counted fairly, but cannot expect proper treatment from the police or the courts, puts into serious question the liberal component of that democracy and severely curtails citizenship” (O’Donnell, 1993, p. 1361) and the rights it bears. Such a violation of the rights and guarantees of citizenship by the non-implementation or inefficiency (the agencies) of the state to act according to the law, on the other hand, also promotes the citizens’ distrust in political institutions, and also makes the dimension of accountability of the elected politicians in front of the voters ineffective. This in turn brings about restrictions/limitations on the proper functioning and institutionalization of democracy. Failure to enforce legality effectively throughout the territory by their various state agencies has led to the limitation of some of the rights of citizenship; has produced low levels of political accountability, which, in many cases, was even inexistent; lack of trust of citizens in political institutions, which has made the democratization of many countries function with great and serious shortcomings.

### 3. Stateness and democratization: the Albanian case during 1991-2017

The weakness of the structural conditions of stateness in Albania is taken as a conditional variable to explain the malfunctioning and non-consolidation of democracy in Albania during the period 1991-2017. After the overthrow of the dictatorial regime in 1991 and the beginning of its democratic changes, Albania, does not constitute a successful democratization case, in the sense that it has failed to consolidate and institutionalize democracy and it is still classified as a hybrid regime in different classifications of political regimes. Thus, in the case of Albania, democratization can be said to be unsuccessful because the construction and efficient development of democratic institutions has been hampered: the elections that have been held can be categorized generally as free and competitive, but combined with the use of „unfair” means and the use/abuse of state posts by those in power to gain advantage over their political opponents; there is a violation of citizens’ political rights; media and press freedom is not guaranteed; there are serious deficits in the functioning of the rule of law; low levels of political accountability, etc. All these are some of the problems faced in the democratization process of Albania, and in this paper it is argued that one of the main factors that have conditioned the non-consolidation of Albania has been the weakness of structural conditions of stateness.

Regarding the weakness of conditions of stateness which Albania has faced during these 26 years, we could begin the analysis with some historical factors. Firstly, throughout its history, Albania has never experienced a genuine state-building tradition, developed as a consequence of grassroots pressure or interaction with its civil society, nor has the state ever been accountable to it and it has not acted democratically. On the contrary, the state which has developed in Albania has been rather an instrument in the hands of the political elites who have ruled it, which have used it mostly for the purposes of their power. The same can be said about the state’s infrastructural capacity and law enforcement capacity, which have almost never been efficient in Albania’s history. Another important and destructive factor for the conditions of the existence of an effective state in Albania has been the relatively long period of totalitarian rule of communism (four decades and a half, from 1945 until 1991). This totalitarian past has adversely affected the weakness or inefficiency of the state in Albania in the period when it started its democratization.

Thus, in the absence of a genuine and autonomous state-building tradition and with the lack of an effective resistance by its civil society (or any organized social opposition) that could resist its installation, the totalitarian regime that settled in Albania was one of the most severe, the most penetrating in terms of ideological and social control of society. It imposed almost total binding collectivism in the economy, eradicated the sphere of organizational life outside the influence or control of the “one-party state”, and practically shaped the life of every Albanian citizen. A period of relatively long totalitarian rule in Albania was followed by a great economic and social crisis and difficulties in the 1980s, which subsequently

produced a political crisis and accelerated the collapse of the communist regime, along with the collapse of the institutional structure of the socialist (communist) state and its governing infrastructure. This created unfavourable conditions for the state's infrastructural capacity and its capacity to enforce the law in the subsequent transition period, as the collapse of the totalitarian regime in Albania in 1990-1991 meant at the same time the fall of the state (in the period of the communist rule in Albania, the party and the state were nearly symbiotic and inseparable, and almost nothing was out of control of the party).

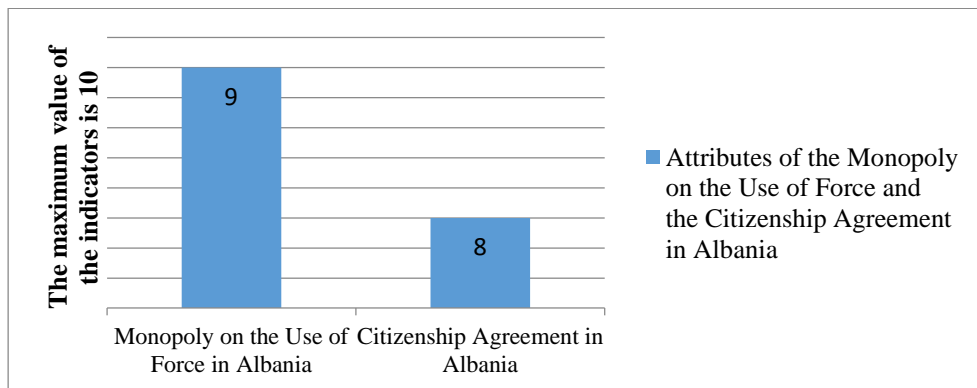
The argument here is that, since totalitarian rule in Albania had been for a long time violent, imposing, collectivizing, disrespectful to human rights, arbitrary and with its actions often not based on law at all, every "affliction" related to the previous totalitarian communist regime/rule was also related to the state. This brought about a nearly total collapse of the state and its institutions together with the collapse of communist regimes and produced some sort of apathy, or rather a rejection of Albanian citizens in the transition period of „everything" that had to do with the state or that symbolized public authority. Célestin Monga expresses this idea in a very interesting way when he highlights that: "Given that life is one long fight against the state, the collective imagination has gradually conspired to craftily defy everything which symbolizes public authority" (Diamond, 1997, p. 58). In the case of Albania after 1991, such a thing was very much emphasized, and the restoration or reconstruction of the state's authority and its infrastructural capacity proved to be very difficult. Moreover, in the case of Albania, in the absence of an autonomous and genuine state-building tradition, there was little basis to rebuild or "revive" state authority. Thus, the conditions of the existence of an effective state in the transition period have been extremely unfavorable, and this has been a major factor that has conditioned the unsuccessful democratization of the Albanian case.

Regarding the conditions of stateness which, in this paper, were analysed in terms of four constituent attributes (monopoly on the legitimate use of force; citizenship agreement; infrastructure capacity of the state; and law enforcement capacity), Albania manifests problems especially in the last two attributes.

Thus, in terms of the first attribute of stateness, that of the monopoly on the use of force, which includes political stability and the maintenance of public order within its territory, Albania does not present any serious problem. An exception is the period of 1997-1998, when the capacity of the Albanian state to maintain the monopoly on the legitimate use of force and to guarantee public order and political stability was seriously questioned (practically, at that time, the Albanian state did not control much of its territory) because of the civil unrest and political instability that affected the country at that time, from the proliferation of weapons to the hands of the population, and the spreading of gangs and criminal groups in many cities etc. After 2000, this attribute of stateness in Albania has been improved and has marked relatively high levels. Meanwhile, regarding the second component of stateness (citizenship agreement, which essentially deals with the issue of legitimacy and the

integrative potential of the state), in Albania, there is no significant group within it, which denies the legitimacy of the political entity or of its borders, as there is no problem as to who is entitled to citizenship (including minorities, to whom equal rights are guaranteed). The indicators of these two first attributes of stateness in Albania, based on the data obtained from the Bertelsmann Transformation Index, are illustrated below in (Figure 1).

**Figure 1. Indicators of the attributes of the Monopoly on the Use of Force and the Citizenship Agreement in Albania<sup>3</sup>**



Source: Bertelsmann Transformation Index (2010 and 2014).

The biggest problems regarding the structural weakness of stateness in Albania are mainly in terms of low infrastructural capacities and low law enforcement capacities. These are the two main attributes of stateness, or rather the lack of their appropriate conditions, which have mostly negatively conditioned the process of democratization in post-communist Albania.

Democratization essentially requires a transformation of the role and capacity of the state in order to be able to serve the new democratic governance and regime as well as to guarantee with effectiveness all the rights (electoral, political, civil) of a democratic citizenship. In this sense, the capacity of the state, understood in terms of the administrative efficiency of its constituent structures, which effectively put legality and direct their decisions in terms of public good, are essential to the

<sup>3</sup> The data has been obtained from Bertelsmann Transformation Index (2010 and 2014) which assesses countries based on their development and transformation processes. The first attribute of stateness is measured on the extent to which the state monopoly on the use of force covers the entire territory of the country. Meanwhile, the second attribute is measured on the extent to which all relevant groups in society agree about citizenship and accept the nation-state (political entity) as legitimate (retrieved from [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2014/pdf/BTI\\_2014\\_Albania.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2014/pdf/BTI_2014_Albania.pdf)).

functioning of democracy. In post-communist Albania, based on different factors (historical, cultural, etc.), stateness was not in favourable conditions to determine and guarantee the democratization process successfully. Herein, when talking about the relative weakness of the state's capacities in Albania, we are not talking about the relative size of the state bureaucratic mechanism, but of their ineffectiveness in establishing and enforcing legality across the country's territory and in performing public roles by following universalistic rules and oriented towards the public good. So, in other words, we are talking about ineffective state structures, politicization (and, in some cases, privatization by those holding state positions), and capture of the state's mechanism by ruling elites who use the state's power to their advantage against their political opponents.

Particularly, as mentioned above, countries which have not experienced a state-building tradition, such as the case of Albania, the autonomy and the state's infrastructural capacities and of law enforcement after the beginning of democratization proved to be too difficult to build and function properly in the face of various political pressures, thus affecting the quality of democracy there. In Albania, after the collapse of the communist regime and the beginning of democratization, along with the formal mechanisms within state structures, there was a flourishing of informal (illicit) mechanisms that eroded the infrastructural capacity of the state, making it ineffective in guaranteeing a democratic system. "From the very start of regime change, Albanian political parties have treated the state as a piece of property to be distributed among respective militants and loyalists without any consideration of professional credentials or requirements for the job. The recruitment of political militants and loyalists in key state institutions... was instrumental in controlling the spoils of the state" (Elbasani, 2017, pp. 27-28). Likewise, Grzymala-Busse and Luong have expressed that "the post-communist experience illustrates that both formal and informal legacies act as important constraints on state formation because they constitute the primary resources available to elites competing for authority (Grzymala-Busse and Luong, 2002, p. 535). Gërxhani and Schram (2009, p. 315) also remark on the case of Albania that "as long as formal governmental institutions do not function properly, informal institutions like clientelism will actively fill the vacuum". In this sense, the autonomy and capacity of state structures is threatened by the political actors who usurp them (which cease to be in an embedded autonomy), govern them in a form of privatized power/domination in pursuit of their particularist interests. "The result has been a process of "state-capture", characterized by 'governance through clientelism and patronage networks accompanied by large-scale, high-level corruption" (Van Ham, 2014, p. 9). These informal mechanisms within state structures include patronage, clientelism, corruption, privileged access models in the administration and state resources woven within the institutional framework of the state in Albania, weakening its infrastructural capacity and by directly threatening the democratic process in this country. The problem of state capture and governance through

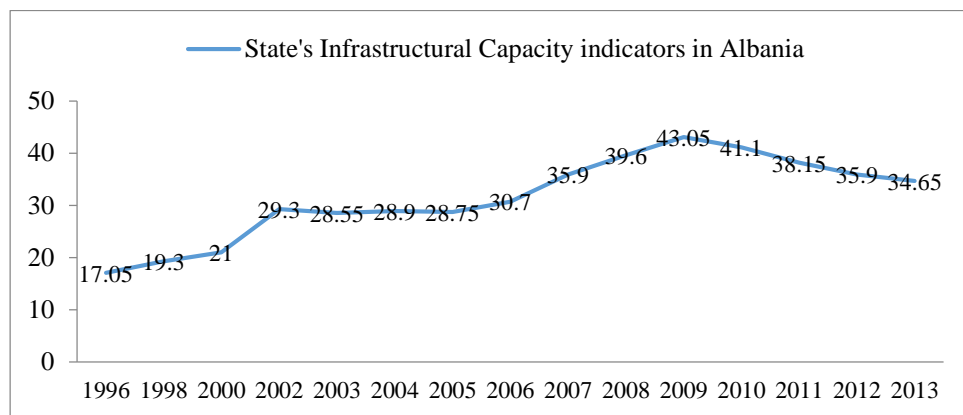
informal mechanisms and networks is “systemic and structural and persists over an extended time period, thus causing significant social, economic and environmental harm and undermining the core democratic values” (Lisjak, 2017, p. 56). The electoral competition and the democratic system are distorted under such conditions, for as long as democracy, by definition, implies that the party competes under equal conditions for gaining electorate support in relation to their electoral offer.

If we were to refer to the elections held in Albania since 1991, their fairness and integrity, as main pillars on which a democratic system is based, they have almost always been compromised by patronage and use of „privatized power” over state structures by different ruling elites. The case of Albania best illustrates this, where political elites have colonized formal structures, “using them to freely plunder public coffers and to consolidate their political and economic gains while relying on informal networks and personal connections as the basis for national policy” (Grzymala-Busse and Luong, 2002, p. 545). “The administrative apparatus thereby functions... as the toolkit for the meticulous consolidation of power: The one allocating jobs in a country where there is normally no work available, creates an army of subordinate supporters, who all profit from the system of party patronage” (Krasko, 2017, p. 3).

Alan Riley has called this as a “re-feudalization” process, where power is held by informal networks that run through every state institution (Riley, 2013). In this case, such a „privatized” use of state structures, which indicates the low infrastructural capacity of the state and its ceasing on being an embedded autonomy in the face of political pressures, has negatively conditioned the process of democratization in Albania which, for a relatively long time since 1991, has not at all been able to institutionalize and consolidate democracy. State’s infrastructural capacity indicators in Albania, which show low levels, indicating the inefficiency or even the „capture” of the state by political actors, is illustrated below in Figure 2.

Even with regard to the enforcement capacity of the law, the indicators of this attribute of the State also show relatively low levels in Albania. In this country, the main law enforcement institutions have been persistently confronted with the problem of endemic corruption that has internally characterized them, making them ineffective in enforcing rules, contracts, or laws of the country. Thus, in various international reports, the courts and the police, as two of the most important law enforcement institutions, are seen as the most corrupted and enjoy low credibility in the eyes of Albanian citizens in implementing the rules of the society. “Corruption in the Albanian judicial system is widespread and represents a very high risk for businesses. Bribes are often exchanged for favourable judicial decisions, and judges and prosecutors lack accountability (European Commission, 2015).



**Figure 2. State's infrastructural capacity indicators in Albania<sup>4</sup>**

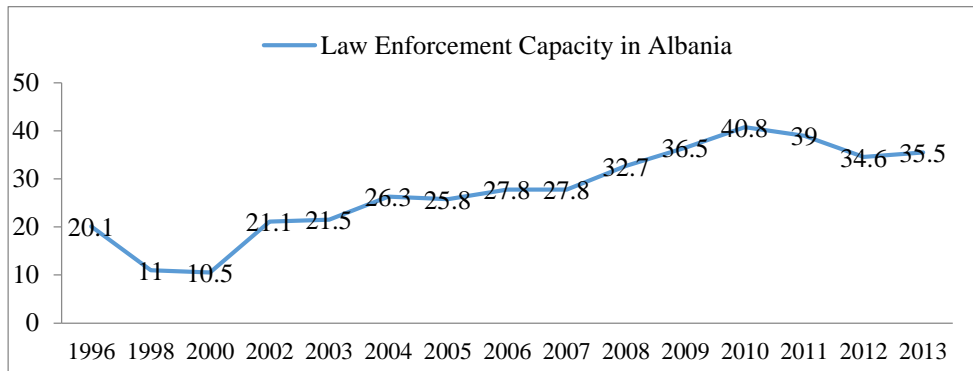
Source: Worldwide Governance Indicators (2014).

As noted in BTI's Albania Country Report, there is "ample evidence that the judiciary has gradually degenerated into a corrupt corporation that stands on two pillars – deep politicization and links to organized crime" (Elbasani, 2017, p. 26). The judicial system does not function as an autonomous element of the state system, but as a friendly accomplice of corrupt and criminal civil servants (Kraske, 2017, p. 3). Likewise, the interaction of citizens and businesses with the police is seen as high-risk corruption, taking into account also the culture of impunity for those that violate rules or laws. "Bribery is the most widespread form of corruption and remains almost unchanged, just like two years ago, as other forms of corruption have increased their presence. Cooperation with criminals, involvement in illegal traffic, manipulation of evidence, and corrupt procurements are among corruption forms with significant rise" (Institute for Democracy and Mediation, 2016, p. 8). Thus, corruption and the selective enforcement of the law among law enforcement officials in Albania have become endemic. Such violations by law enforcement agencies of the state, supposed to act according to the law, also renders ineffective many of the civil (but also political) rights of citizens, while not guaranteeing effectively the dimension of liberal constitutionalism and the rule of law. In the best case, in the environment of a captured state through informal mechanisms and networks, as it happens in Albania, the rule of law is only weakly established, thus undermining another vital dimension of democracy. Low indicators of this attribute of State in Albania show the inefficiency of state agencies to act according to, and enforce the law, which

<sup>4</sup> Data on the state's infrastructure capacity have been obtained by integrating governance effectiveness and corruption control indicators of the Worldwide Governance Indicators (2014), in the report on Albania over the years 1996-2013 (retrieved from <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>).

places this country in the face of still big and serious obstacles on its path of democratization (see Figure 3).

**Figure 3. Law Enforcement Capacity indicators in Albania<sup>5</sup>**



Source: Worldwide Governance Indicators (2014).

## Conclusions

23 years ago, Linz and Stepan, in their seminal work „*Problems of Democratic Transition and Consolidation*”, would significantly reactivate the debate on the relationship between stateness and democratization. To them, stateness was a prerequisite for democracy, as also framed by their famous phrase: “No state, no democracy”. However, Linz and Stepan were limited in their work and only emphasized two attributes of stateness, respectively: the monopoly of the legitimate use of force within its territory and citizenship agreement among the various groups that constitute it. Contrary to the often naive optimism presented by the voluntarist approach<sup>6</sup>, which views the establishment of democracy as a product of actions,

<sup>5</sup> Data has been obtained from the Rule of Law Indicator from Worldwide Governance Indicators (2014), in Albania’s Reports over the years 1996-2013. Rule of law indicator captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. Taken from <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>.

<sup>6</sup> cf. Di Palma, G. (1990), *To Craft Democracies An Essay on Democratic Transitions*, University of California Press. Rustow, Dankwart, *Transitions to Democracy: Toward a Dynamic Model*, *Comparative Politics*, 2(3); Karl, T. Lynn, K. and Philippe, C. Schmitter (1991), *Modes of Transition in Latin America, Southern and Eastern Europe*, *International Social Sciences Journal*, 43(128), 269-284; Carothers, T. (2002), *The End of the Transition Paradigm*, *Journal of Democracy*, 13(1).

strategies and choices made by political elites, the approach offered in this paper, which basically argues that structural conditions of stateness are conditional to the well-functioning of a democracy, builds on the theoretical work of Linz and Stepan, but also of other important authors who have contributed to this aspect. As such, the approach offered here completes the stateness's variable by adding two other very important attributes, respectively: the state's infrastructural capacity and its law enforcement capacity which are capable of sanctioning legality throughout the territory and of effectively guaranteeing civil and political rights and liberties for their citizens, by orienting their actions towards the public good.

The theoretical perspective of this paper essentially argues that a State with high infrastructural and law enforcement capacities is essential for the functioning of a democratic system, as only through it can the full institutionalization of electoral and political rights, the dimension of liberal constitutionalism and the rule of law be achieved. So, these two other attributes of stateness, often overlooked and not paid proper attention in the literature of democratization, are necessary and conditional factors on the prospects of a given country to achieve a well-functioning democracy. The main findings of this article, based on the findings provided by an empirical case which, in this paper, was Albanian democratization during 1991-2017, suggest that countries will not be able to develop democracies in their environments as long as they do not have a functional and effective state with the infrastructural capacity and legitimate institutional structures capable of sanctioning legality throughout their whole territory.

The lack of such effective state agencies, with their underdeveloped infrastructural capacities, or the control that these agencies have to exercise in their actions in performing public roles by following universalistic rules and being oriented towards the public good, undermine the rules of the game of democracy, often giving those in power an advantage over their opposition challengers. The phenomenon of „state capture”, the dominance of informal practices within state structures, or the use of public administration as a patronage source in favour of pursuing particularistic goals (e.g., for electoral advantage) by those in power undermine the legitimacy of these institutions themselves, thus preventing standardization and depersonalization in the pursuit of the rules and practices of the game which a democratic system presupposes. As we have seen in this study, these have been some of the main factors which have negatively conditioned the process of democratization in Albania, which is still characterized by shortfalls and malfunctions, with serious deficits in the functioning of its rule of law, low levels of political accountability, etc.

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