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IT IS TIME TO DREAM ONCE AGAIN

Vjollca Proni[†]

INTRODUCTION

In 1992, for the first time in its long history, Albania declared itself a democratic state. During fifty years of communist rule in this Eastern European country, separation of powers did not exist.

Investigators, prosecutors, judges, and jurists had to graduate from the Law Faculty. The only Law Faculty was located in Tirana, where the students studied for only three years. During that time, they gained general knowledge about the State and the law, but they were not involved in any practice. As soon as the students finished their studies, they were appointed as investigators, prosecutors, or judges. Both males and females, at the age of twenty-two, were appointed to these positions in almost equal numbers. Appointments after graduation from college were dependent upon your social class and whether your parents worked for the government. These were the only criteria because all students had the same education and knowledge. Regardless of whether a student was male or female, he or she could be appointed as a judge if his or her parents were high government officials. Those whose parents belonged to the lower class were appointed as investigators. Thus, a twenty-two-year-old attended the investigation process, brought accusations to trial, and made decisions, all without having any practice or experience.

Under the old regime, the government proclaimed that justice came from the people and belonged to them. Laws were approved by the government and changes were not expected. Justice was given as the government ordered, not as the facts or law dictated. The government blindly believed in the permanence of the communist system, and Albanian lawyers and Law Faculty students could not study foreign law or explore foreign literature.

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The only foreign literature available for study was Russian literature, which included all the laws of the communist states, of which Albania was a part. Albanian lawyers started to read and learn laws of the Western European states for the first time in 1992.

The importance of justice during the communist regime is illustrated by the fact that only children of high government officials had the right and opportunity to attend the Law Faculty. Here begins my story in the field of justice.

I.

I come from a middle-class family. My father worked in the mines and my mother worked as a babysitter. Since I was very young, my father told me about the injustice done to the Albanian people during the fifty years under the Hoxha regime. I remember him talking to me about his indirect fights with the regime's power. Because my father would have gone to prison for such conversations, they took place in secret. While talking with him, a desire was born in my heart to fight for faithfulness and justice for my suffering people. In elementary school, I started dreaming about bringing justice to the people who had suffered for many years under the communist regime. I had a dream and desire to study law, even though the right to attend Law Faculty belonged only to the children whose parents worked for the government. Thus, although I was an excellent student in high school (Gjymnaz), I was convinced that my dream would not be fulfilled. Still, something inside me kept pushing me to study hard because I never knew what would happen. After I finished the first year of high school, one of my teachers who had studied abroad during the time of King Zog asked me: "What do you want to be when you grow up?" My answer, without doubt, was: "I want to study the law." He replied: "You must know very well how hard it is to attend Law Faculty." I paused and did not answer him. Then he looked at me and said: "But anyway, you continue studying hard, and we at school will help you."

According to my teacher, the only way to fulfill my dream was to finish high school with high results (all "tens"). Based on the law of education at the time, only those with perfect marks of ten in four years of study could select the field and subject she wanted to study. I was able to do that; at the end of high school,

I won the first gold medal in my city and only the fourth in Albania. Thus, I had the right to select my field of study.

The Law Faculty was very hard for me because the other students were prejudiced against my background, lack of knowledge, and desire to work hard and learn more. Through my hard work, I graduated from the Law Faculty with the highest results. The method of study during the first three years was the same as in the past, but we felt changes in 1991 when the communist regime started to collapse in Albania. During my last year of study, an internal struggle developed inside everyone. Although we had to learn the old communist literature, our minds were awakened and we wanted to be part of the developed world. I am grateful to my professors who, instead of testing us on the traditional subjects, started talking about global changes. They stopped teaching the old laws and encouraged us to learn foreign languages and laws. Neither our professors nor the other lawyers in Albania had ever been abroad. It was unimaginable to think of going to the Albanian airport. As lawyers, they were forbidden from exploring foreign literature or talking in foreign languages. Everything they learned about foreign culture they learned from secretly reading forbidden books. Our professors were the first to establish contacts with lawyers, prosecutors, judges, and professors from different countries. Thus, we opened our doors and began to read books in foreign languages, understand the world, and know the truth. All this happened when we were still in the Law Faculty. During that time, the question of what to do in the future crossed the minds of all of us who graduated from the Law Faculty. It was time to ask myself: "What are you going to do further?" As part of the Albanian society, I took the first step of my life on the new road under the new system.

II.

Under the new system, the power belonged to another class, and the state was led by another party. The mechanisms of the state began to change. The state began to conform to the rule of law. As a result of these changes, laws needed to be changed, and so did the people who were serving in the justice system. The lawyers, investigators, prosecutors, and judges were replaced in their positions. The new institutions needed both men and women of the law.

It was very difficult to think that a Law Faculty graduate could become a judge, chief judge, or diplomat in a different institution. Of the seventy-five students in my graduating class, I was the one appointed as a Legal Advisor to the Parliament (People's Assembly), the first pluralistic Parliament in fifty years in Albania. I started working when all the laws needed to be changed, and the Parliament was charged with approving all the new laws. Working in the Parliament was hard, but helpful, for me because I became familiar with the new laws at the very beginning of the approval process. We needed many hours to explain the new laws, interpret them for the members of the Parliament, and adapt them to Albanian conditions. I consulted with foreign experts on the new laws, deciding what we should take from Western laws and what we should take from Albanian pre-communist laws. Through my job at the Parliament, I became familiar with the laws of the free market economies, which gave me a better idea of the world and the laws of a democratic state. For the first time, I had the chance to talk with foreign experts about different fields of law. I was able to exchange my views on justice with them, and thus I created in my mind a future vision of the Albanian justice system.

After my job in the Parliament, I was appointed as a law clerk at the Court of Cassation (Supreme Court). My job there was more professional and closer to what I had dreamed: giving justice to the people through changes in general, reforms in different fields of economy and society, and approval of new laws seeking an independent and impartial judicial system. Although the new temporary constitution declared the separation of powers, the judicial system still suffered from the ignorance and the inferior status inherited from the past. While in the Parliament, I learned how long it takes to change the laws. Having worked at the Court of Cassation, I see how difficult it is to build an independent judiciary. Changing the mentality of the judiciary is more difficult than adopting the new judicial methods.

Now, I work as a law clerk at the Court of Cassation and as a professor at the Law Faculty, where I teach family law part-time. Teaching at the Law Faculty gives me the opportunity to know the younger generation, to whom the future belongs. Everything has changed in Albania. The students at the Law Faculty can speak better than anyone else about these changes. They have the privilege of many opportunities, including the freedom to

learn foreign languages. They read the foreign literature and learn the foreign laws. They can compare foreign laws with Albanian laws, finding the best ones to adapt to the Albanian conditions. Additionally, some Albanian students attend foreign law schools in Europe and America.

The examples mentioned above show that the laws and the society are improving and that Albania is moving forward. Laws approved by the Parliament conform to international standards. Still, we face difficulties in applying and using these laws in daily life.

Changes are apparent in the court system. Under the old laws, the courts were composed of: thirty district offices; four appellate courts, located in four major districts of Albania; and the supreme court, located in the capital city of Tirana, on which all other levels of courts were dependent. Under the new laws, the organization of justice has a new structure. Now, the court system is composed of thirty-six district courts, an appellate court in Tirana, and the Court of Cassation (Supreme Court), the highest court in Albania.

Previously, the judicial system was composed of an investigation office, a prosecution office, and the courts. These three main organs were dependent on the government. The investigation office was composed of the districts' investigation offices and the general investigation office, upon which all of the districts' investigation offices were dependent. The prosecution office was composed of the districts' prosecution offices and the attorney general, upon which all the districts' prosecution offices were dependent.

Now, the investigation office and the prosecution office are separate organs dependent on and administered by the Ministry of Justice. For the first time in Albania, the plaintiff and the defendant can have their own lawyers. Law graduates can become public or private lawyers, prosecutors, judges, professors, or legal advisors in different institutions. Now more than ever, everyone's role is very important and well-understood: to develop a rule of law in Albania. The people now understand how important justice is in a democratic society. Hopes are high, especially now that Albania is completely open before the world.

Today, Albanian lawyers talk with their colleagues from different countries and participate in international activities on different legal issues. Lawyers in Albania are trying to build an independent judiciary. The judicial system is declared in the

constitution as independent and is recognized as a separate branch of the government.

III.

The constitution will become fully complete when all people are treated equally without any regard to sex, origin, or culture. To achieve that equality, the state must play an important role; it must treat lawyers equally, both *de facto* and *de jure*. Further, the lawyers must lead by example and treat everyone equally before the law. According to the laws, males and females are equal. This is shown by the following facts:

1. At the Parliament, three of the six legal advisors are female.
2. At the Court of Cassation, six of the eleven law clerks are female, and three of the eleven justices are female.
3. In the Law Faculty, forty-five of the seventy-four students selected from the 1994 competition for entrance were female.

All females have the right to attend the studies in Law Faculty. However, we must examine *de facto* equality.

A patriarchal mentality exists in Albania. Based on that mentality, females are born to keep house and raise the children. Females are supposed to go to work to help the family with money, not to further their professional careers. Although males and females in almost all jobs are equal in number, when any creative thoughts are needed or decisions are to be made, females are not asked because it is thought that "they cannot do anything." On the job, females' knowledge and insights are not sought. No female holds any important position in the Albanian government. After a female succeeds, questions of why and how always are raised, even if the males know a female is well-educated and knowledgeable. Females are the last to speak, and even if they express their opinions, those opinions will not be considered by males. Every thought given by females is assessed as a "female thought." This is true in every field of economic and political life in Albanian society. This bias is even more apparent in the field of justice because many in Albania believe that females cannot judge right from wrong.

I have seen this bias myself. Throughout all my professional activities, I have faced the priority of males over females. I have always dreamed of bringing independence to the justice system,

and I have wanted to be part of the changes in Albania. With that dream in mind, I was appointed by the High Judicial Council as a judge in the Tirana District Court. In this way, I can bring justice directly to the people by writing civil or penal decisions and putting my signature on important state documents. Although this is difficult for a female to accomplish, someone must start. With this start, I have fulfilled my childhood dream. Now, it is time to dream once again.