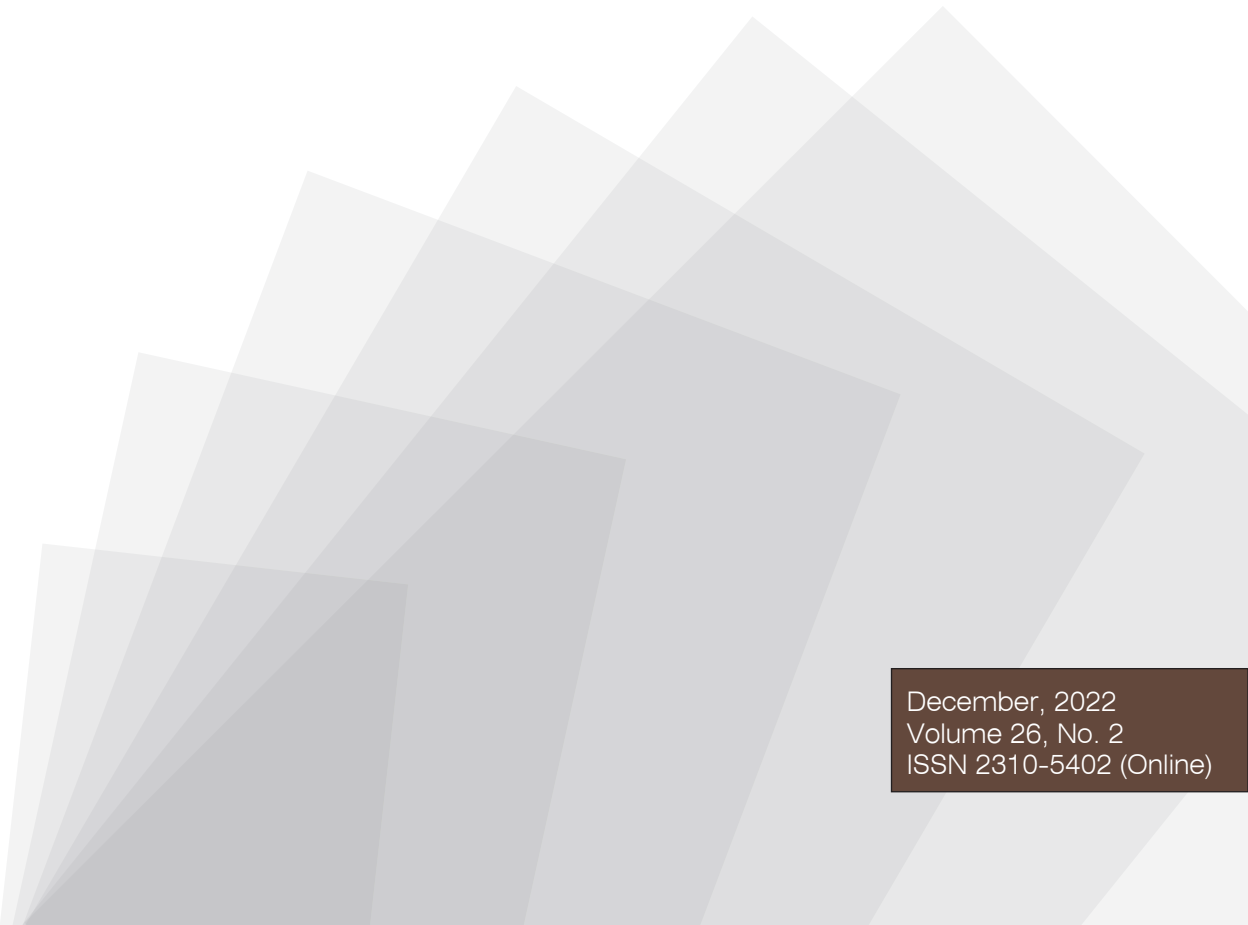




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#### **CONTACT**

Albana Cekrezi

Email: [bjes@beder.edu.al](mailto:bjes@beder.edu.al)

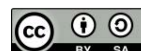
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Violeta Xhomara<sup>1</sup>  
Ana Uka<sup>2</sup>

## Creativity in Education: Fostering Creativity in the Classroom Using Creative Teaching Methods

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### Abstract

It is essential to have an understanding that there is no one definition of creativity that is capable of encompassing all of the thoughts and discoveries related to creativity. The aim of this study is to analyze teachers' perceptions about creativity in education in the context of Albanian schools through a questionnaire distributed to different schools around Albania. The research questions investigated in this study are as following: 1) How do teachers perceive creativity? 2) How to foster creativity in the classroom? 3) What do teachers need to grow their skills in creative teaching? The results of the study, which were based on data provided by educators working in elementary and secondary schools, showed a broad picture of their perceptions regarding creativity, the dimensions of creativity in education, and the barriers they face when attempting to implement creative teaching.

**Key words:** *Creativity, Education, Questionnaire, Perception, Albania, Creative teaching.*

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<sup>1</sup> "Ilia Qiqi" Middle School, Burrel, Albania, Email: [vxhomara20@beder.edu.al](mailto:vxhomara20@beder.edu.al)

<sup>2</sup> Research Center for Sustainable Development and Innovation, University College "Beder", Albania, ORCID: 0000-0002-9039-8504  
Email: [auka@beder.edu.al](mailto:auka@beder.edu.al)

## **Introduction**

In recent years, there has been a significant focus placed on, and incentive for, teaching at the different levels of education, starting from kindergartens and primary schools to shift away from the conventional "chalk and talk" teaching technique and toward a more imaginative and forward-thinking instructional approach. In order to develop this transformation, which also featured critical thinking, the Albanian Education Ministry has established a number of training programs in addition to modifications in curriculum and assessment practices. In order to expedite this shift, a number of different policies, in addition to significant expenditures in infrastructure and money, have been established. As a result, it is very necessary to conduct an investigation into the degree to which creative education has really been carried out and into the perceptions of creativity that Albanian educators now hold.

First and foremost, the purpose of this thesis is to discuss the numerous aspects of creative teaching that have been thought about and documented lately. Second, the purpose of this thesis is to have an exploration on the challenges and obstacles that need to be overcome in order to successfully apply creative teaching in the classroom. Concerns about creative teaching and learning are one example of this. These concerns extend beyond the realm of pedagogy to include not just the subject matter but also the ways in which students learn. In order to determine whether or not creative teaching is effective, it is necessary to take into account a number of teacher and student characteristics, such as attitudes and perceptions.

The results of the study, which were based on data provided by educators working in elementary and secondary schools, provide us with a

picture of their perceptions regarding creativity, the dimensions of creativity in education, and the barriers they face when attempting to implement creative teaching. It is proposed that additional research utilizing instructors at various levels of education may shed more light on the validity and reliability of this instrument and the results. This is due to the fact that the study only gathered a relatively small number of responses. At this stage, we are keeping it as simple as possible; nevertheless, pedagogical, curricular, and policy ramifications based on the results may be explored.

The purpose of this study is twofold: to investigate the perception of creativity of Albanian teachers and to explore barriers that exist to creative teaching. Main objectives identified throughout the research process are: 1) Emphasizing the importance and impact that creativity has in education; 2) Investigating the perception that teachers have on creativity; 3) Exploring ways of creating support for teacher to grow their skills in game-based learning and creative teaching; 4) Identifying best practices to foster creativity in the classroom; 5) Exploring the dimensions of creativity in education; 6) Investigating barriers that exist to creative teaching. The research questions investigated in this study are as following: 1) How do teachers perceive creativity? 2) How to foster creativity in the classroom? 3) What do teachers need to grow their skills in creative teaching?

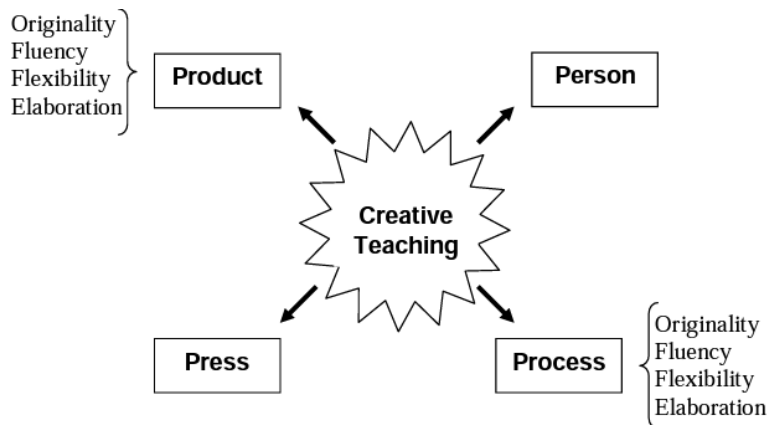
## **Literature Review - Creativity in Education**

### **2.1 Definitions of Creativity**

It is essential to have an understanding that there is no one definition of creativity that is capable of encompassing all of the thoughts and discoveries that have been made about what creativity is. Its significance



may be interpreted differently depending on who you ask. To the musicians, it is the creation of some music that has never been heard before but is attractive, and to the painters, it is the portrayal of an uncommon mood or tale via the use of colors and figures. It is possible that physicists may see it as an innovative and beneficial innovation or discovery on par with Einstein's general theory of relativity. Nevertheless, these many interpretations of creativity point to an underlying truth, which is that creativity involves a number of things, including the invention of ideas that are brilliant, unique, and helpful.



Rhodes (1961) organized the plethora of different definitions of creativity into four distinct areas, which he referred to as 1) Process, 2) Person, 3) Press, and 4) Products. Definitions of "process" often focus on describing the many phases of creative processes that take place inside the mind of the artist. It is a way of behaving that is geared toward the accomplishment of creative goals. Some meanings of "person" relate to the potential for creative accomplishment, in which creativity is considered as a collection of traits of the person. In these definitions, "person" refers to the

capacity for creative success. Definitions of "product" pertain to the final product, which is the location of manifestations of an individual's creative abilities. Definitions of "press" relate to the environmental circumstances that must be present in order for creative activity to take place. One can see that creative teaching can also be examined using this categorization of creativity. This is something that can be observed.

It has been hypothesized that creative individuals think in a variety of distinct ways during the course of their thought processes. Herman Helmholtz, a German biologist and physicist, is credited with having one of the first ideas. Graham Wallas, in his book titled *The Art of Thought* (1926), reported on Helmholtz's study, which included one of the oldest ideas. It was hypothesized that the creative process may be broken down into four stages: preparation, incubation, inspiration (illumination), and verification. During the stage of preparation, you will be required to observe, listen to, ask questions of, read, gather, compare, contrast, analyze, and draw connections between a wide variety of things and information. The thinking about pieces, connections, and reasoning that takes place during the incubation stage might take place either consciously or unconsciously. After a time of incubation, known as the fallow period, during which tensions are removed and one is able to be creative, one may experience moments of inspiration or illumination. The phase of verification is characterized by arduous labor and focuses on the process of materializing a concept.

## **2.2 Dimensions of creativity in education**

When students are able to use their imagination and critical thinking to develop new and meaningful types of notions thanks to the classroom setting created by the teacher and the school, as well as when students are able to

take risks, be independent, and be flexible, we can see a great example of what creativity in education looks like here. Students in this kind of classroom are not instructed to just recap what they have already learned; rather, they are guided through the process of honing their capacity to provide a variety of answers to a question.

In most cases, creative educators look for one-of-a-kind educational opportunities that will assist them in developing a global awareness of the education system and will satisfy their curiosity about the operation of the educational system in both our own country and in other countries. In addition, these educators receive first-hand understanding of the varied educational expectations that their students' families bring into the classroom with them for their children. When it's done well, creative teaching centers on discovering new ways to "make learning visible," encourage inquiry, actively involve students, foster their own creativity, and stretch their ability to produce original and high-quality work. In its most basic form, creative teaching is a form of active learning.

Because it fosters cognitive complexity, creativity has a lot to offer in the realm of education. It depends on having in-depth information and being able to successfully use that knowledge. To be creative is to make use of an existing set of information or abilities in a specific topic or environment in order to experiment with new possibilities in the pursuit of desirable results, so growing both one's knowledge and one's skills. It is something that grows with time and is more likely to be effective if individuals begin the creative process at a moment when they already have some knowledge and abilities under their belts.

## 2.3 Characteristics of a creative teacher

There is no question that becoming a teacher is one of the most challenging careers a person could pursue. The role of the teacher is to act as a mediator between the student and the student's reality, and this role involves more than just teaching. Because of an expanded awareness of the nature of creativity as a unique process, susceptible to training, and historical events that led to educational reform and new methods, stressing giftedness and creative ties, the idea that instructors should be involved in promoting the development of creativity in students is a notion that progressively emerged through time. This greater understanding of the nature of creativity as a distinct process, amenable to training, is what prompted these advances.

Let's begin our examination of the factors that contribute to creative thinking in education by focusing on one of the most crucial figures: the educator. A teacher's creativity encompasses the ability to evaluate ideas, choose the most useful ones while discarding the others, and maintain mental flexibility, which we may describe as the capacity to see an issue from a variety of perspectives and to shift focus from one problem to another. The analysis of the profile of a creative teacher may be broken down into four distinct categories: personal qualities, community, method, and results. The creative processes of educators are the result of the interplay between their personal qualities and the communities in which they work and live. These personal characteristics include personal intelligences, motivation, and values. The outputs of these processes might take on a broad range of forms. It is important to point out that creativity is not merely a vague notion that is hard to comprehend and use in real life. For instance, in order to be considered a creative educator, one must have strong classroom management

abilities, as well as the ability to assure appropriate student conduct, productive study and work habits, and a general atmosphere of respect inside the classroom. "Even though he may not be aware of it, the teacher, himself, is creative in the sense that he is creating an environment as he arranges, organizes, interprets, asks, or directs. This is true even if he does not realize it. The first step for a teacher in creating an environment that fosters creativity is to acknowledge the disparities that exist between his own world and that of the students in his class. When it comes to assisting children in the formation of their own self-concepts, he has to be conscious of the impact that his own attitudes and actions have. (Boos, R.,1971).

These instructors have the ability to develop positive connections with their classes, which is one of the most crucial talents they possess. In addition to laying out explicit goals for each session and making it a priority to achieve those goals during the course of each lesson, creative instructors also have engaging personalities and methods of instruction. It is not as important to have all the answers as it is to ask the proper questions in this situation. They are able to keep the attention of the children throughout any conversation, are positive role models for the students that they are responsible for, and search for ways to demonstrate that they care about the students via their actions rather than just their words. "In the majority of research studies, a creative teacher or a teacher's creativity is viewed as a capability, habit, or professional feature, which is related to a teacher's courage to take risks in order to create unpredictable learning situations for students in order to promote their autonomy and self-confidence" (Morais & Azevedo, 2011).

The qualities of a creative teacher are not confined to the confines of the classroom setting alone; rather, these qualities extend to the connection

the teacher develops with the students' parents as well. These educators retain an open line of contact with the parents of their students and ensure that the parents are kept abreast of what is occurring in the classroom with regard to curricular matters, disciplinary matters, and other concerns. They put themselves in a position to receive phone calls, in-person meetings, and email communications. First and foremost, creative instructors are those that are really enthusiastic about their work with students. They are enthusiastic about having an effect on the lives of kids and are aware of the significance of their role.

## **2.4 Characteristics of creative learner**

The learner, often known as the student, is the second most crucial piece of this massive jigsaw that consists of several components of creative thinking in education. When it comes to examining the qualities shared by creative learners, we will need to investigate a number of different factors, including personality, cognitive and emotional, creative self-efficacy, and active engagement in social networks variables. A person's openness to new experiences, their curiosity, their desire to explore the unknown, and their capacity to endure ambiguity are all aspects of their personality. While effort and perseverance are examples of cognitive and emotional factors, the capacity to develop a wide range of ideas, to question and critically reflect on one's own thinking, and to integrate ideas drawn from a number of sources are examples of cognitive and affective variables.

Learners who are creative are able to bring order out of chaos and unearth hidden meanings buried in knowledge. Learning to think critically and do research are essential skills for creative learners. In the same way that

food nourishes the stomach, information nourishes the brain. The creative self-efficacy, also known as the belief in one's potential to confront obstacles and to persevere, as well as the willingness to take intellectual risks, are two characteristics that are especially crucial. 'Flow,' a term coined by Csikszentmihalyi (1990), refers to a state of intrinsic drive, engagement, and intense attention. All three of these factors are essential. And when it comes to the final variable, active participation in social networks, it has been identified as important to enhance creative potential in studies drawing on educational data mining techniques and self-reported creativity scores. This is because active participation in social networks has been identified as important for enhancing creative potential.

In addition to this, creative learners often think independently and beyond the box as they pursue their education. They often find themselves lagging behind the rest of the party as they pick up feathers, buttons, and various other trinkets for their collection while simultaneously considering possible use for the items. They like constructing things and creating in a wide variety of mediums, so you could find them interested in Legos, art, music, theatre, or even blocks. These learners, when they are at a young age, take their toys beyond their intended purpose and utilize classic toys like trains and dolls to come up with new and unique games and worlds. This occurs because these learners are creative thinkers. Learners who are creative are autonomous, and although they may not explicitly dispute established norms, it is not uncommon to see them following the beat of their own drum and existing in a world of their own creation.

In order for our students and graduates to be prepared for the future and to have satisfying professional lives, the curriculum that we use must provide them the tools to cultivate an awareness of ethical issues as well as a broad

range of characteristics, talents, and behaviors. To make it possible for students to engage in creative learning, we must first purposefully cultivate a set of characteristics that can be seen in the students' ability to effectively communicate about themselves and their ideas; to be receptive to feedback and new insights; and to confidently put their learning to use in ways that make it possible for them to adapt to and thrive in a variety of different situations and scenarios. Students demonstrate these characteristics when they are able to do the following: communicate effectively about themselves and their ideas;

## **2.5 Characteristics of creative classroom**

Classrooms that foster creativity are ones that are oriented on the students in the class and in which the instructor acts more as a "guide by the side" rather than a "sage on the stage." This strategy calls for in-depth knowledge of the subject area, smart teaching, and an attitude that welcomes the unexpected. The shift in the roles that instructors play and the dynamic of the classroom might have a significant impact. Students are far more willing to share their unique perspectives and creative solutions, and as a result, they acquire knowledge much more rapidly. On the other hand, there is a widespread misunderstanding that creativity in the classroom has anything to do with the arts. As was said previously, a teacher may play a significant role in fostering creative thinking among their pupils. In spite of this, originality and thinking beyond the box are essential components of creativity.



A good learning environment will always include some creative components, which will make the courses more engaging and participatory for the students. Students are helped to be imaginative as well as encouraged to learn new things when the appropriate amount of creativity is mixed in with the curriculum. In addition to enhancing their emotional and social capabilities, students have the opportunity to mature into effective communicators. Students' educational experiences and the way they put what they learn into practice may be profoundly altered by the presence of creativity in the classroom. In point of fact, the emotional growth of a pupil is significantly impacted by their capacity for creative expression.

“The classroom climate should nurture an appetite for the unknown. It should be joyful and comfortable. It should foster balance between the mastery of subject matter and method. It should engender originality as well as work habits, which are of the utmost importance to self-realization. It must be future oriented and such that the principal agent is the student not the teacher. It should result from multi- faceted approaches to problem solving and from the combination of various patterns of learning.” (Boos, 1971).

## **2.6 Characteristics of creative school**

Each kid completes the majority of his or her development while attending school within the framework of a group, which either promotes to or inhibits this development. It is essential for the group life to make its contribution, even though the school should become aware of alternative methods of working with the individual. Every student has the opportunity to benefit from unique and enriched experiences of creative learning, as well as a wide variety of different changes and structured opportunities for

developing their creativity if the school is considered to be creative. A creative school is a place that consists of some critical and vital mature factors.

The innovative school has to have a contemporary system that monitors its progress and organizes the help it receives from the community. In these schools, instructors adhere to protocols for training and advancement, and there is no centralization of the management systems; instead, the management systems are run in a participatory manner. Leadership, community, and local power are the pillars around which a creative school is built. For a creative school to have these qualities, the leadership must have a change-oriented mindset, the community must support the change, and the management's foundation must be cooperation.

It is essential that this point be driven home to people on a consistent basis: changes to teaching practices and institutional structures in schools do not, on their own, guarantee the birth of a creative educational environment. The individuality of the instructor and his/her character is the most important consideration. "The creative schools must allow the child to err without recriminations and must continue to offer strong support. Support in this sense does not mean shielding the child from the consequences of his actions, but perhaps, protecting him from making choices the consequences of which will be more than he can bear" (Boos, 1971).

## **Creative teaching**

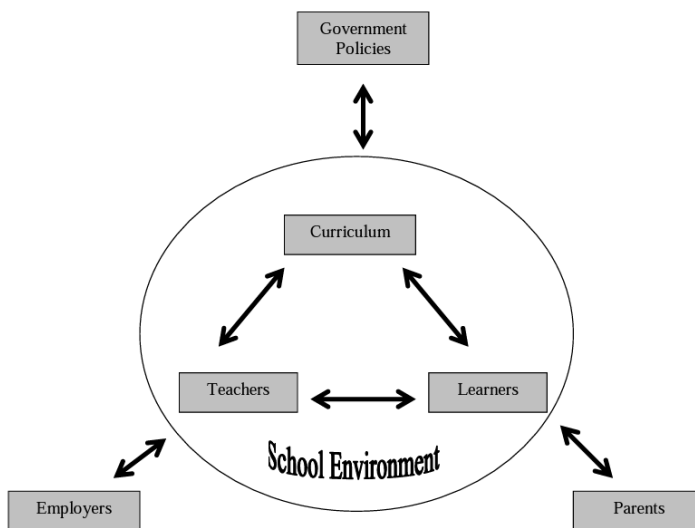
There are many different definitions of creative teaching. The majority of the definitions have concentrated on the process of teaching creativity, that is, instructing students in creative thinking with the intention of encouraging students to develop their own creative thinking skills. One further facet of creative teaching, namely teaching in a creative manner, has been overlooked in the concept of creative teaching. This facet of creative teaching is known as teaching creatively. The purpose of this thesis is to provide a picture of creative teaching, which will include teaching creativity as well as teaching creatively.

Creative teaching is defined for the purposes of this thesis as the process of introducing creative processes and components of creativity into the teaching process. This definition will be used throughout this thesis. In addition to this, it takes into account the creative personality traits of the instructor as well as the creative thought processes that he or she employs while formulating the instructional tactics that are used to improve learning and inspire student motivation. An example of inventive teaching would be a music instructor that utilizes many tape recorders to explain to their pupils the developing portion of Beethoven's "Eroica," which the students have struggled to comprehend (Rubin, 1985).

The act of creating and organizing education in such a manner as to enhance thinking abilities, particularly creative thinking skills among students, is referred to as teaching creativity. This method is described as the process of teaching creativity. For instance, instructors who are teaching creativity to promote originality in thinking in a language class may ask

students to rework an ending to a narrative they are familiar with or come up with a fresh conclusion for a story they like reading.

A model of creative teaching is offered here, with its foundation in the definition of creative teaching presented above. It takes a systems approach to investigating creative and innovative pedagogy in the classroom. With the help of this holistic approach, educators and trainers will be able to guarantee that the model is successful in evaluating not just creative teaching but also the elements that have an effect on creative teaching.



### **Creative teaching System (Palaniappan, 2004).**

A prerequisite for the development of creative learning. During the process of creative teaching, the instructor sparks the interest of the students in the subject matter being studied, and then guides the students to find creative solutions to the problem on their own. Alternatively, the instructor may present specific problems and ask the students to apply a variety of different resources in order to find the most satisfying creative solution.

The practice of instructing in a creative and helpful manner that fosters student development in relation to the development of original thinking and action. The practice of creative teaching places equal emphasis on a teacher's instructional strategies, as well as the overall impact those strategies have on their pupils and the results they generate for the classroom as a whole.

## **Methodology**

### Research design

This study was carried out as a quantitative study with participants chosen through convenient sampling procedure. This design was chosen because it allowed for the measurement of facts, such as teacher perceptions on creativity and barriers to creative teaching. This approach provided the researcher with several possibilities to collect data through questionnaires in a primary and secondary school. It used statistical approaches and presented the results in an objective manner. The survey approach includes identifying a demographic, choosing participant, designing survey questions, and collecting and evaluating data. Each of these stages will be discussed in depth in the next sections of this chapter.

### **3.1 Setting**

This study was conducted in one of the Primary and Secondary schools of Burrel, a small town in the north of Albania. The reason I chose this schools is primary because I have been working there for most of my life and also wanted to put into light the difficulties that teachers face when it comes to developing and implementing creative teaching skills in classrooms in

such small towns as Burrel where sometimes they might face judgment from the community for bringing something different to the table when it comes to education.

### **3.2 Participants**

The survey was implemented at one of the Primary and Secondary school of Burrel. There were selected 14 teachers, each with a different level of expertise. Participants in the research were chosen at random from a pool of primary and secondary teachers. This study includes teachers with experience in teaching that starts from 6 years and goes up to 32 years of experience. Also the subject that they teach is chosen to be as diverse as possible including primary school teacher, Science, arts, English etc. This was done in purpose, first to secure a diverse in approaches and second to be able to study how the experience and the subject an educator teaches, does affect their answers.

### **3.4. Research instruments**

A questionnaire was used to collect the data needed for the survey. Using a questionnaire was advantageous as it made it possible to have high accessibility in very short time. The current study relies on a questionnaire made of statements around creativity where the participants had to agree or not with the given statement or in some cases choose from the different options presented in the question. The questions are not created originally by me but rather a set of 16 questions is collected and compiled based on the feedback received previously on the different teacher forums I am part of, discussions with different colleagues on the matter and also based on the personal observations.

### **3.5. Method of analysis**

The participants were given 30 minutes to complete all of the survey questions. The records set changed into imported for extra evaluation whilst the records accumulating changed into completed. Based on the research questions provided in the thesis's first chapter, the data was sorted and examined. Quantitative data analysis techniques were used to examine the questionnaires. The findings of the data analysis were then analyzed in details.

### **3.6. Data collection and procedures**

After the headmaster approved that the survey could take place in the school, the questionnaire was shared with the chosen 14 individuals. Most of them know English but for those who faced difficulties the questionnaire was translated to Albanian but also assistance was given during the whole period of completing the questionnaire.

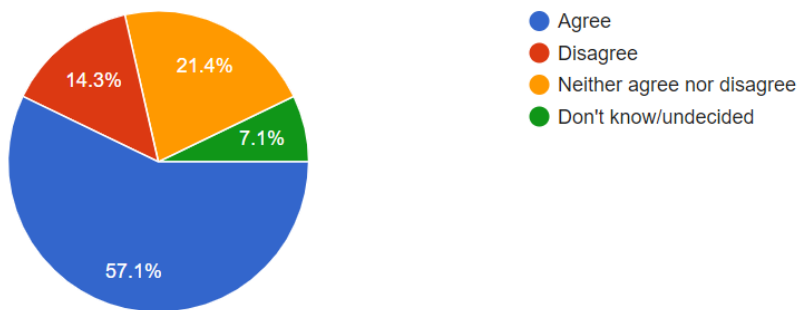
## **Results**

This section presents a detailed analysis of the teachers' perceptions regarding creativity in education and also investigating the barriers to creative teaching. As it is seen below, the results show that there might be some misconceptions when it comes to defining creativity and who is responsible for nurturing it in students. Also, when it comes to the barriers, it seems that there exist guidelines from education authorities but the practical side is what is missing.

#### 4.1 Creativity perceptions

This set of questions is formulated to investigate the perception that teachers have on creativity. They are introduced with a set of statements and had to choose if they agree or not with the given statement.

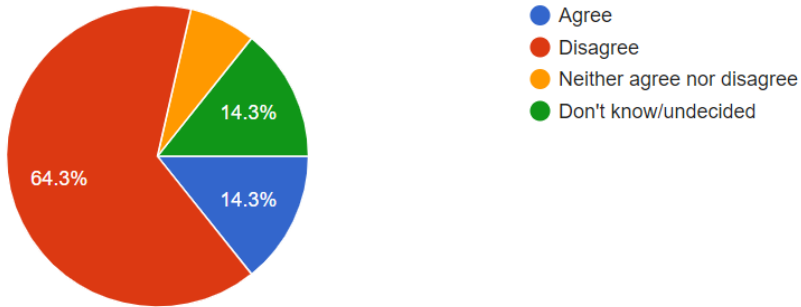
1. Creativity is a gift to individuals that can be nurtured in certain settings.



Results show that the majority of the participants do think that creativity is a gift and that can be nurtured in certain settings. What's interesting here is that the second largest group are not the ones who disagree but rather the ones who don't take a stance on the the given matter, they neither agree nor disagree. Those who agree make up 57.1% while those who neither agree nor disagree are 21.4% of the participants.

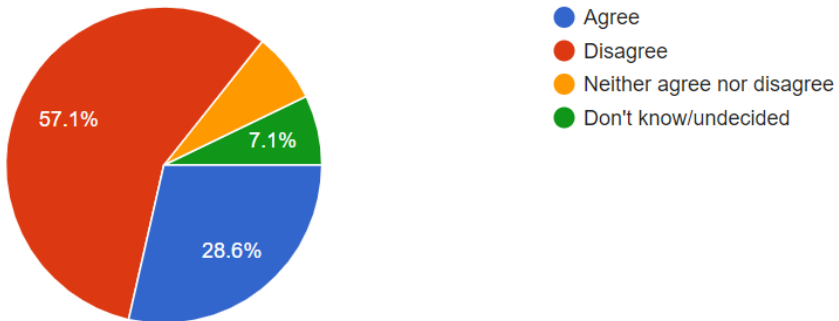
2. Creativity is inborn and cannot be developed





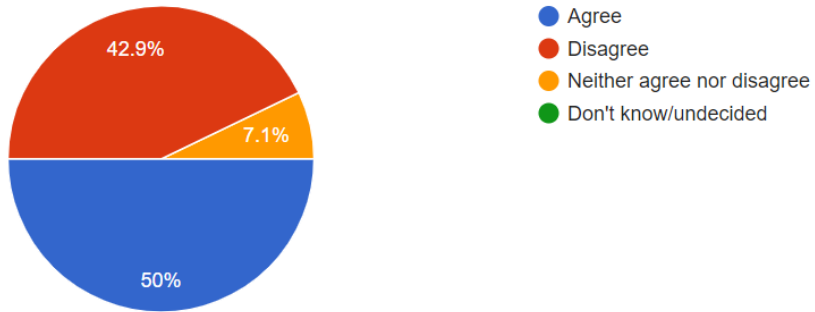
The second statement is to some extent the opposite of the first one as it implies that creativity is inborn and cannot be developed. It's good to see that 64.3% of the participants disagree with this as it means they are more willing to use methods to teach creativity in the classroom. Whatsoever, I see it a bit concerning that in this small group of participants there's a considerable amount of 14.3% that agree with the statement.

3. Acquiring basic skills is more important than fostering creativity

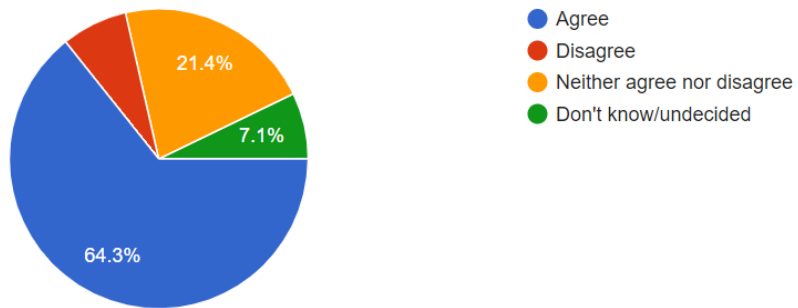


Deciding if acquiring basic skills is more important than fostering creativity led to having 57.1% of participants disagreeing with the statement

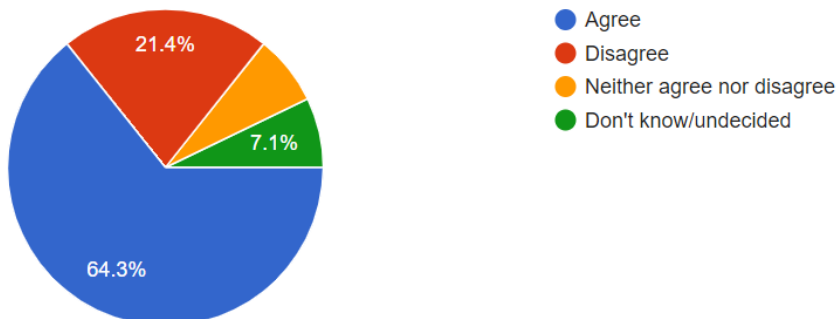
4. Teachers should include the assessment of creativity when designing assessment tasks



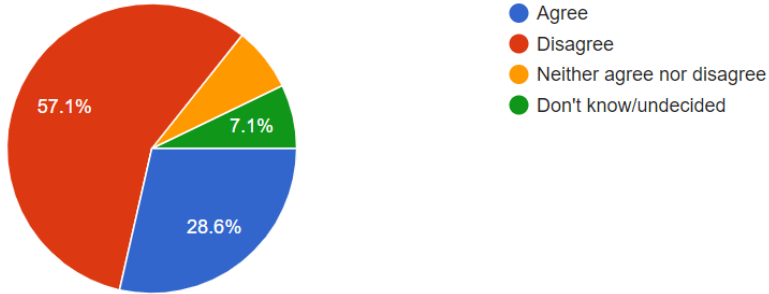
5. Developing students' creativity is key responsibility of Arts teacher



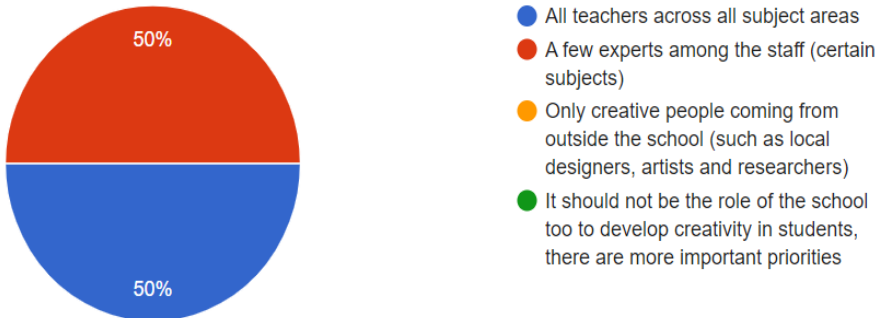
6. Developing students' creativity is a key responsibility of Primary teachers



7. Creativity refers only to music performance or creating artworks



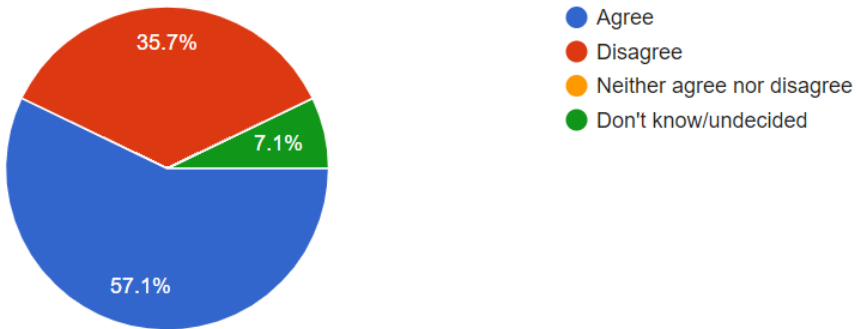
8. In your opinion, who should have (the responsibility/role) to facilitate creative experiences for students in schools?



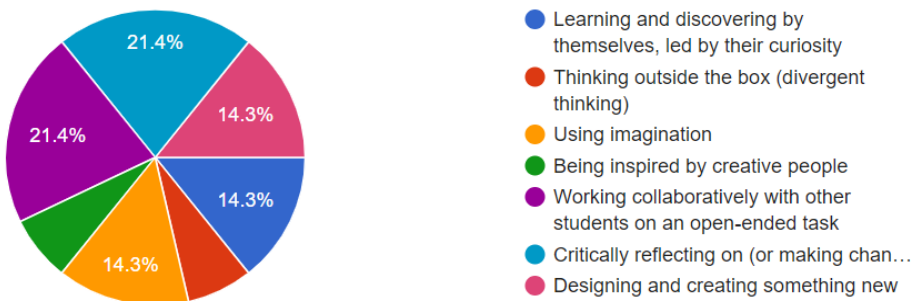
**4.2 Dimensions of creativity in education**

This set of questions is formulated to explore the dimensions of creativity in education. They are introduced with a set of statements and had to choose if they agree or not with the given statement or choose between the most relevant option to them.

9. Creativity can be enhanced by using technology



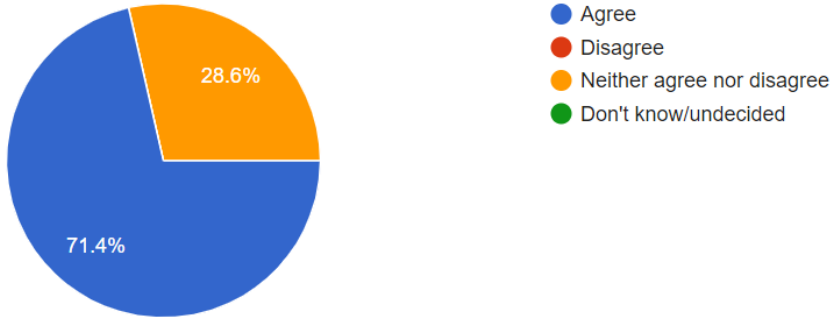
10. How often do pupils have the opportunity to take part in creative activities in the classroom?



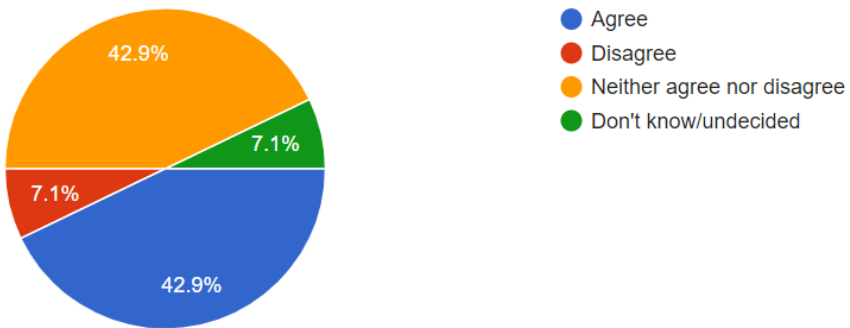
**4.3 Barriers to creative teaching**

This set of questions is formulated to Investigate the barriers that exist to creative teaching. They are introduced with a set of statements and had to choose if they agree or not with the given statement or choose between the different options that are relevant to them.

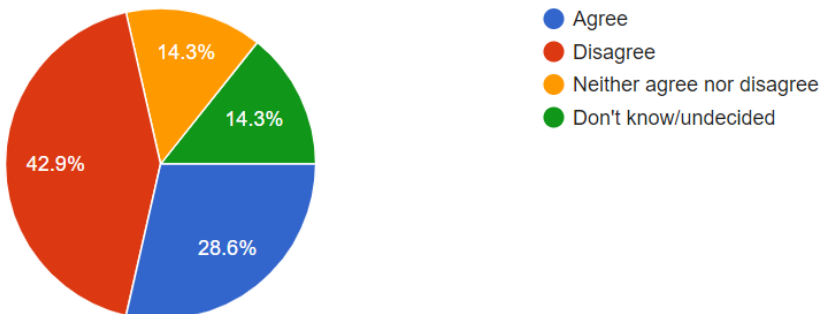
11. My school environment encourages creative behavior in students



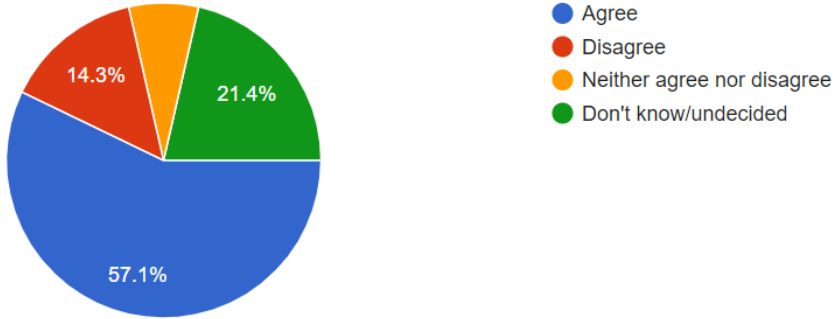
12. My school environment encourages creative behavior in teachers.



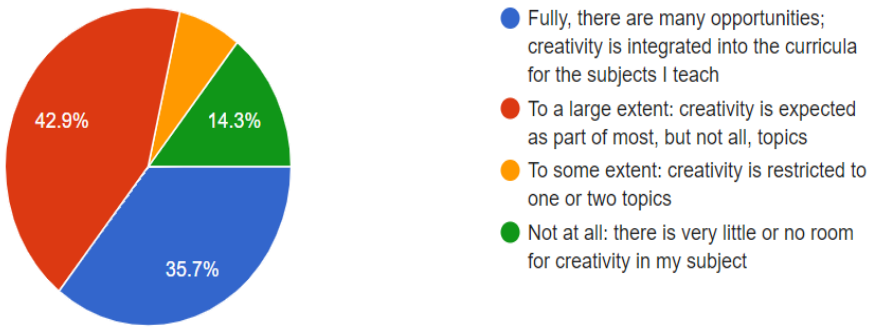
13. Students are not motivated to learn what is not being assessed



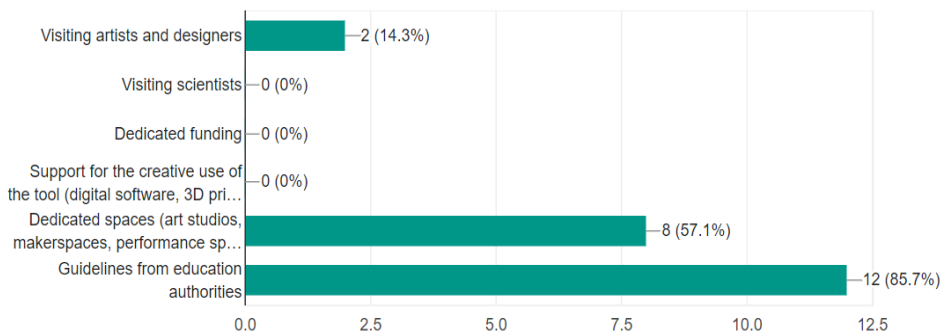
14. Encouraging creativity is difficult because of the way marks are allocated in assessment



15. To what extent can you include creativity in teaching?



16. Which of the following types of support does your school provide for teachers to foster creativity and pupils to engage in creative processes? (choose all that apply)



## Conclusion

Results show that the majority of the participants do think that creativity is a gift and that can be nurtured in certain settings. It's good to see that 64.3% of the participants disagree with this as it means they are more willing to use methods to teach creativity in the classroom. Deciding if acquiring basic skills is more important than fostering creativity led to having 57.1% of participants disagreeing with the statement. Developing students' creativity is key responsibility of Arts teacher. Creativity refers only to music performance or creating artworks. Regarding the respondents' opinion on who should have (the responsibility/role) to facilitate creative experiences for students in schools, they thought that both teachers and other staff members at school are responsible about this. Most of the teachers believed that creativity can be enhanced by using technology.

Referring to the barriers that teachers encounter when they want to foster and develop creativity among students, they were not sure whether the school environment encourages creative behavior in teachers or not. The majority of the teachers agreed that encouraging creativity is difficult due to the way assessment is conducted at school. Most of the teachers think that they can include creativity to a large extent in teaching. The kind of resources that the schools use to foster creativity among students is by providing visits of different artists at school, by providing dedicated spaces in the school environment and by following the guidelines of the education authority.

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Zhuljeta Daja<sup>3</sup>

## Education during 1912-1939 in Albania. The Influence of the Legislation on its Development

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### Abstract

Education as one of the basic human rights, is one of the basic elements to make one able to face the challenges of life, to give one the opportunity to do the best with his life and to break the barriers of poverty, discrimination, and social inequality. Through this article, it is intended to be provided from a historical perspective, the evolution of school and education legislation in Albania. The independent Albanian state that was established in 1912 did not inherit a national education system. The starting point for its establishment and development was the educational program of the Provisional Government of Vlora that included the opening and organization of the primary school, the declaring of the primary education as compulsory for both sexes, measures taken for the design of school programs and textbooks as well as the initial foundations of educational legality. Education in Albania during the period 1912-1939, had the profile of the Albanian state itself, which was fragile and not well formed. This is

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<sup>3</sup> “Aleksander Xhuvani” University, Elbasan.  
Email: zhkadilli@yahoo.com

one of the important periods in the history of the Albanian education system. The development of education system took place under difficult economic and social circumstances, but due to the patriotism and hard work of intellectuals, there were great achievements. It is crucial to mention that during this period education became part of the legitimate human rights that can be evidenced at the legislation in force. Numerous efforts were also made to open schools, design new programs, and above all to enable learning in the Albanian language. To develop this work, the study relied on historiographical literature and archival documents. In conclusion, it can be said that the state and society tried not only to develop education in Albania but also to put it on a legal basis. Although incomplete, the legislation on education in the years between 1912-1939 laid the foundations of education in Albania.

**Keywords:** *Education, Legislation, Period between 1912-1939, Albanian schools.*

## **Introduction**

### **1. Historical background of the right to education**

Nowadays, we live in a rapidly changing and increasingly interdependent world, where knowledge and innovation are the main drivers of development. In a global environment, education as one of the basic human rights serves to equip the individual with knowledge, to make him able to face the challenges of life, to enable him to do the best with his life and to break the barriers of poverty, discrimination, and social inequality. Of course this equipment with knowledge about life and throughout life, that man tries to do it himself, must have the support from the state which will help him in this process. Mico indicates that (2019):

"We are born weak, we need strength; hopeless, we need help; mindless, we need reason. Everything we lack at birth, everything we need when we become human, is the gift of education (Mico, 2019: 24)".

First of all, this can be achieved through education. Such education must be equal, comprehensive, qualitative, and lifelong. What is the path through which education has gone in Albania during the years 1912-1939? What is the role of the state in this process, what did the government of Vlora do, and how did the process of education development continue? Did the government of Vlora and others consider it a right and a duty for its citizens and itself? These are the research questions that guide this work. The right to education is one of the most important human rights, because it serves as a reinforcement of other rights when it is guaranteed and as an exclusion for their enjoyment, in case it is denied (Tomasevski, 2003:1).

In our country, there are several periods when this right is valued and measures were taken by the state to include all children in the education process. The purpose of the study is to document the efforts of the Albanian state in the years 1912-1939 for the education of its citizens and the achievements in this direction. There is a positive effort during the time to open schools in the Albanian language and put education on a national basis. For the purpose of this article, we analyzed the education situation from 1912-1939, the legislation and its evolution during this period. It is noted that during this period Albanian language schools of different levels are being opened. However, even though there are efforts, they are modest in relation to the needs of the Albanian society.

## **2. Theoretical background**

This work is developed from a historical perspective combined with legislation. The focus of this study is on the law on education in the years between 1912-1939 and its impact on Albanian society. The right to education in Albanian society was given late, alongside some other rights. Although there were initiatives in this direction, it was included in the Albanian legislation after the Declaration of Independence. The independent Albanian state in 1912 did not inherit a national education system. The starting point for its establishment and development was the educational program of the Provisional Government of Vlora, in which the opening and organization of the primary school was foreseen. Primary education was declared compulsory for both sexes, measures were taken for the design of school programs and textbooks, as well as the initial foundations of educational legislation. From this moment onwards, the law on education was enriched and further developed. In accordance with this,

the education of the population was moving at a satisfactory rate and was spreading throughout the country.

### **3. Formulation of the problems and goals of the study**

Education in Albania was put on a legal basis with the Declaration of Independence. Firstly, this study aimed at exploring how education in the Albanian language has evolved? Secondly, this work aimed at examining how education in Albania was supported by the legislation in force? One of the problems is why the improvement of legislation has proceeded at a slow pace? However, even though it was legally accepted late, the desire and efforts for education of the Albanian people have been great, especially since the National Renaissance until 1939.

### **4. Questions and hypotheses**

The main question addressed in this study is: how has the legislation for the education of the Albanian people evolved in the years between 1912-1939? Has the state considered it as its obligation during the period mentioned in this study? Why education in Albania has progressed at a slow pace? Is it related to the political and cultural level of society? The right to education from all the consulted literature shows that it has not proceeded properly, even if it is in accordance with the law.

## **5. Materials and method**

To develop this paper, it was relied on the rich historiographical literature. It was also searched at archival sources. The literature was reviewed in a new perspective, that is, not simply as an achievement in education, but as being under the influence of legislation. In order to analyze the situation of education as a right and an obligation, the data from Albania were referred.

## **Results and Discussion**

### **5.1 Education in Albania during 1912-1918 period**

The period from the 1930s-1940s of the 19<sup>th</sup> century in Albania is known as the "National Renaissance". This period was accompanied by the strong rise of the educational and cultural movement in Albania. One of the main tasks, which was set from the beginning of the Albanian National Renaissance, was precisely that of cultivating the Albanian language, spreading Albanian education, spreading scientific knowledge, and new literature with patriotic content (Myzyri, 1978:12). The spread of education and the Albanian language would lead to the awareness of the Albanian people about the national issue.

However, even though there were efforts in this direction, the achievements until the Declaration of Independence were modest. After the Turkish Constitution of 1908, the Albanian people with efforts and sacrifices managed to open about 70-80 schools in the Albanian language and one school for teachers' preparation (Shaplo, 1973:64) in Elbasan.

The Declaration of Independence of Albania, on November 28, 1912, marked the crowning of the Albanians' efforts to free themselves from Ottoman rule,

but also the beginning of a long and difficult process of state formation for them. The newly created Albanian state faced a number of priorities. It had to ensure international recognition, establish the state administration, etc. In the framework of priorities, education also took an important place.

The independent Albanian state in 1912 did not inherit a national education system, and this is the reason why it was defined as a top priority. The starting point for its development was the educational program of the Provisional Government of Vlora, in which the opening and organization of the primary school was foreseen. Primary education was declared mandatory for both sexes, and measures were taken to draft school programs and textbooks, and the initial foundations of educational legislation were laid (Historia, 2003: 265).

In the field of education, the Albanian government had to provide the minimum conditions to begin the long and difficult process of educating a population dominated by a majority of illiterate people. The Declaration of Independence found the country with a very limited number of educational institutions, where there were about 250 primary schools and several dozens of schools (Historia, 2007: 44). In the main cities, there was a small gymnasium. Albanian language schools were few. Lessons were given in Turkish, Greek and Italian. Many of them worked with religious programs (Historia, 2007: 44).

In its entirety, the educational program of the Provisional Government of Vlora had as its final goal the creation of a secular national education system, the introduction of compulsory primary education, the compulsory use of the Albanian language in schools, the preparation of teachers through Normal schools and pedagogical courses. The Minister of Education, Luigj Gurakuqi played an important role in the design of this program and in the establishment



of the structures of the Ministry of Education and educational directorates in the main prefectures of the country (Rama, 2005:11).

During the implementation of the policy for the creation of national education, in August of 1913, the Albanian government "decided that every ruler should have a preparatory school of teaching as a profession (in the Albanian context named as "normale përgatitore") where students would be accepted on the basis of certain criteria" (Përlindja e Shqipëries, 1913: 2). In 1913-1914, there were opened and provided education about 64 Albanian schools, most of them found in villages.

Also, the entire educational system had to be subject to the laws of the Albanian state. Schools had to receive official permission from the government, use the Albanian language as the language of instruction, and implement programs and books recognized by the Ministry of Education. The Relevant Law (Kanun) of Civil Administration (November 22, 1913), in article 29, among others, noted the following duties: "the directorate shall strive for the construction of schools, which are opened and governed by the prefecture, organize examinations for primary school teachers, and award diplomas where the level of preparation for the teacher being tested is indicated. In article 30, it is determined that the director of education is the chairman of the prefecture council, executes the orders given by him, and tries to establish schools in places where there are none" (Historia, 2003: 273). It can be seen that since 1913, there is an attempt to make primary education compulsory and take other important measures for the school.

After the arrival of the International Commission of Control, in October 1913, the Provisional Government of Vlora was faced with pressure to open foreign schools, in particular to reopen Greek-language schools for the Orthodox community, financed by the Patriarchate of Istanbul (Puto, 1987: 614-617). This tendency was contrary to the measures taken by them, to establish the

education system on a national basis, where in all schools the education would be conducted in the Albanian language. The opening of foreign schools, although it served the right to education of Albanian citizens, did not satisfy their need for an education on a national basis.

This is because in those schools teaching was conducted in a foreign language, in accordance with the educational system and political interests of each of the states that would open schools in Albania.

It is also worth to mention that there was also a shortage of teachers. For this reason, during the period between 1913-1914, courses were opened at "Normalja" to prepare teachers, from the contingent of young people who had graduated from the civil schools and high schools during the Otoman period. The ratio was 1 teacher for 41 students. In 1915, in the area occupied by the Italians, elementary schools were opened. In every school there were Albanian teachers and one Italian teacher. The teachers were prepared through courses and later, in 1917, 17 people were sent to San Demetrio Corona College for 3 months (Dervishi, 2006; 81).

Even during the years 1916-1917, efforts to open schools continued, starting with the "Popular Schools", with the reopening of foreign schools, etc. The regulation, the orders, and the circular, which came out from the General Directorate, had to be implemented by the schools in Albania. There, among others, it was intended to support schools for the implementation of compulsory schooling, or school attendance by all students (Gjedia, 2013:32). The Austro-Hungarian occupation, during the First War, gave impetus to the organization of education and its development. Albanian language schools were opened not only in the cities but also in the villages of Albania. The new directive made primary education compulsory (Gjedia, 2013:32). Already for the Viennese diplomacy, the circumstances were created to fulfill the implementation of their projects in Albania. In August 1916, the General

Directorate of Education was established in Shkodër, which functioned as the Ministry of Education headed by Luigj Gurakuqi. Its first decision was compulsory education for children aged 7-12. In the city, education in primary schools was 5 years, while in the villages it was 3 years. During this year, in the Austro-Hungarian zone of occupation, 200 schools operated in which about 250 teachers were providing education (Asllani, 2000:97).

With the support of the Chief Consul Kral, Normal teaching (Normale) classes were also opened in Elbasan and Shkodër, where each class lasted 6 months with 32 hours each (Asllani, 2000:97).

In the years between 1916-1917, there was an increase in the numbers of schools, teachers and students, so in Elbasan there were 49 schools, 61 teachers and 1750 students, in Tirana there are 26 schools, 39 teachers and 100 students, in Durrës 40 schools, 67 teachers and 1542 students, in Shkodra 30 schools, 66 teachers, 610 students, and in Berat 23 schools, 25 teachers and 1031 students (Asllani, 2000: 35). The opening of these schools shows the functioning of the law on children's right to education, but also indicated that Albanian people embrace and value education.

### **5.1. Education in Albania during 1918-1939**

The end of the First World War (1918) also brought developments in the field of education in Albania. The Congress of Lushnja, convened in January 1920, and made important decisions about education in Albania. These decisions influenced the construction of the national institutions of the Albanian state and the recovery of national education. The extended statute of Lushnja, approved in 1922, constitutes the first case of the affirmation of basic human rights and freedoms in Albania, in relation to

the right to education. In the period of 1920-1924, three educational congresses were organized in Lushnja and Tirana, which gave impetus to educational developments in the country.

The first educational congress organized in Lushnja on August 15, 1920, made a series of decisions for the preparation of laws and regulations that were very important for the beginnings of the educational system. The most important decision was that: all schools in Albania should work with one program. This led to the unification of school content. Other important decisions were related to placing private schools under state control, extending education throughout the country, and the fight against illiteracy. The Congress also decided on the structure of the school (Repishti, 1987: 65). As a result of the people's awareness of the problems of education, in the period 1920-1921, the female primary school was reopened in the district of Elbasan (Musaj, 2002:106), which, according to a document from 1929, was opened for the first time in school year 1912-1913 (Musaj, 2002:106). The document does not give the time and reasons why the school was closed, and this may be due to the impact of the First World War.

The second Education Congress was opened on July 22, 1922. Among the most important decisions were: Primary education would be compulsory, primary school would be made up of 6 classes divided into three periods, each of two years. Also an important decision was the approval of the new program where morality was separated from religion and the teaching of clergy in schools was prohibited (Repishti, 1987: 71). From this congress, the positions and prestige of the clergy was weakened. On August 12, 1924, the third educational congress was held in Tirana. The most important decisions were: compulsory primary education for both sexes in state

schools, private primary schools were closed, the opening of semi-high schools in the main cities and the opening of a "Normal" school for girls. (Repishti, 1987: 75).

During the educational congresses organized in Tirana in 1920 and 1924, efforts were made to nationalize, secularize and unify the structure and content of the Albanian school.

These decisions were also supported by Fan Noli's government program (June 1924), which provided measures for the democratization of education, for the implementation of compulsory primary education, for the distribution of state scholarships with fair criteria, for increasing the authority of the teacher, the connection of learning with life, the secularization of schools, etc.

The Albanian government in 1925 encountered a number of problems in the field of education. The statistical data for the school year 1924-1925 testify the slowness of the development of education from the Declaration of Independence until 1925. The extent of the network of public elementary schools was limited. There were 447 such schools operating throughout the country. They covered no more than 20% of the villages of the Albanian Republic. It was lower in the northern and northeastern areas of the country" (Musaj, 2018:644).

During the years 1925-1939, called the years of the Republic and the Zogist Monarchy, in addition to the consolidation of the Albanian state and the drafting of the complete legislative corpus based on the European experience, systematic actions were also taken to consolidate the Albanian school and education. The number of primary schools in cities and villages was increased, the physiognomy of preschool education was created, general and professional secondary education was developed.

However, the school was characterized by low student attendance, as a result of the high illiteracy rate of the population and low economic level especially in the village. In those areas where the population was illiterate, they did not understand the importance of school. Children were forced to work and contribute in the family economy. Even the lack of traffic, conservatism, as well as the insufficient efforts of state law-enforcement bodies for compulsory school education, influenced the low school attendance. During the school year 1926-1927, 536 elementary schools were operating in Albania, of which 470 were with only one class. There were around 830 teachers who taught in them and the total number of students was 26,612, which is very small for a population of 834 thousand inhabitants. Although the number of students attending the school was small, a positive development had begun in this direction.

### **5.3. The content of the right to education 1912-1939 and its distinguishing elements**

The right to education was given late compared to the history of freedoms and human rights (Volio, 1979: 24). Sami Frashëri elaborated in relation to the right of Albanians to be educated in his work "Albania, what it was, what it is and what it will become" published in 1899. He requested: "All young boys from the age of 7 to the age of 13 should be forced to attend school and guardians will be forced to send them. The teaching will be free of charge where even the poor will be given notebooks and cards free of charge (Frashëri, 1988:76)". Sami also envisioned that, in Albania, there would be open secondary schools for boys and girls, vocational schools for

various crafts, agriculture and the army, as well as the creation of the all-teaching (at university level) and the Albanian academy. But above all there was Sami's strong call to spread education among the Albanian masses. "Let's open schools, let's learn, so that no Albanian remains uneducated" (Frashëri, 1988:76). With special emphasis, he claimed the need and importance of education for Albanian girls. The well-known teacher and patriot Sevasti Qiriazi wrote that "the Albanian woman has been the most powerful factor in preserving the country's traditions, language and customs" (Myzyri, 2004: 29).

After the Declaration of Independence, the government of Vlora decided that primary education should be compulsory for both sexes, measures should be taken to draft curricula and textbooks, and the initial foundations of educational legislation would be laid (Historia, 2003: 265).

The Organic Statute of the Albanian Principality (April 10, 1914) sanctioned the right of Albanian children to be educated. According to Article 35 of Chapter III, primary education should be provided for free and it should be compulsory for Albanian children wherever there are public schools.

While the obligation to teach in the Albanian language was sanctioned, the 12th chapter of the Statute legitimized the variety of schools, but also recognized the state's obligation to take care and supervise their operation. The educational congresses during the years 1920-1924, despite the efforts to complete the constituent elements of the right to education, failed to ensure the implementation of this right, which was legally recognized to Albanian citizens.

The program of the government led by Fan. S. Noli in 1924 would foresee the organization of education, on a modern national and practical basis, so

that schools would form valuable citizens, patriots and workers, anticipating the measures for the implementation of compulsory primary education for Albanian citizens. But the government of Noli failed to draft and approve laws implementing the program (Repishti, 1987: 75).

The right to education was officially included for the first time in the country's constitutional law in 1928. The Basic Statute of the Kingdom of Albania treated it as a fundamental human right, marking progress for the development of this right itself. Articles 206 and 207 of the Statute sanctioned the right to primary education recognized by the state for all citizens, making it compulsory and free. These two elements required guarantees from the state for their implementation, which were not received in the internal legal framework. As a result, the citizens' right to education failed to be fully legitimized. Likewise, the Organic Law of Education of 1933 did not offer such measures for the state to guarantee the implementation of this right (Omari, Anastasi, 2010: 87-88).

During the period of Zog's government (1925-1939), the formal legislative aspect and the legal provisions in the field of education also covered in detail various aspects of the school's activity and the constituent elements of the educational system.

The Organic Law of Education of 1933 (Mico, 2019:36) drafted in accordance to the spirit of the Basic Statute of the Albanian Kingdom (1928) dealt extensively with the constituent elements of the education system, trying to establish new standards in a number of its aspects, but it failed to realize the right to education, at least as far as it was sanctioned in the Statute, as well as it did not provide guarantees from the state for its realization.



The “1933” law was complete and contained clauses. Two of the most important were: Compulsory education, but not always free and not necessarily compulsory. Lawmakers justified this intervention with the infrastructure and the economic situation in Albania and its citizens, especially in the countryside.

In 1934, the entire school system was reorganized. Primary education became compulsory for children between the ages of 4 and 14, although such a rule was never strictly enforced in peasant families (Mico, 2019:36). Despite the sanctioning of free compulsory education (1928), at the same time, the Organic Law of Education sanctioned the obligation of the family to equip their children with books and didactic tools necessary for the learning process. It also sanctioned the collection of money on a monthly basis from every child who was enrolled in school (0.10 fr. gold for each month in the city and 0.05 fr. gold for each month in the village) in order to create the budget for schools, which burdened the budget of every family that had children enrolled in school (Mico, 2019:36).

Thus, in this way, the state was relieved by providing the necessary conditions to implement education for children, reducing at the same time the tracking of their attendance. On the other hand, children could not enjoy the possibility of attending primary education, which was recognized by law.

In the years between 1925-1939, there were the most important educational reforms, from the reformation of the programs to the reformation of professional education. The first minister, Xhaferr Ypi, paid great attention to professional education. The second minister of education, Hilë Mosi, in addition to the efforts to reform the curricula, also emphasized the fact that qualified teachers should also go to the villages. Education was considered

as a priority and the responsibility of the state only. In 1938, the number of schools reached 622. During that school year, there were 1,349 teachers working in 649 elementary schools with about 60,000 students. These numbers show a great improvement compared to the period of 15 years before (Jacques, 1995: 433).

In the press articles of the time, there was great support by the government to make education compulsory, as the right of every child to attend it, but also make it as an obligation.

## CONCLUSION

1. Considering the importance of the right to education for the development of human beings, the right to education was given late in the history of freedoms and human rights.
2. Regarding the right of Albanians to be educated, Sami Frashëri was the first to demand compulsory education for all boys and girls between the ages of 7-13.
3. After the Declaration of Independence of Albania, one of the main problems of Vlora's leadership program was that of education. This program described education as a basic human right, declared primary education compulsory, and worked to open primary schools throughout the country.
4. As a result of the inclusion in the law of the right to education in the period 1912-1939, there have been an increase in the number of school institutions and an increase in the number of students as well.
5. Although the right to education was included late in the constitutional law in Albania, education itself became mandatory. Education has always been a priority for Albanians, such intentions have been cultivated over centuries.

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Valbona Treska<sup>4</sup>  
Fleura Shkëmbi<sup>5</sup>

## The Role of the Psychologist in the Context of Criminal Assessments and Delinquent Behavior

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### Abstract

The paper emphasizes the importance of understanding the psychological characteristics and personal attributes that contribute to criminal behavior. It explores various psychological and psycho-social theories that explain delinquent conduct and highlights the role of psychologists in assessing individuals involved in criminal cases. The methodology of the paper involves a comprehensive analysis of existing literature, integrating quantitative and qualitative techniques to gain insights into the psychological profiles of individuals engaged in criminal behavior. The paper discusses the significance of employing a comprehensive approach in psychological assessments, including risk assessments, competency evaluations, and psychological evaluations. Psychologists play a vital role in understanding and evaluating delinquent behavior by utilizing assessment tools and techniques to assess an individual's mental health, cognitive abilities,

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<sup>4</sup> Department of Psychological Studies, Mediterranean University of Albania, Tirana, Albania, Email: [valbona.treska@umsh.edu.al](mailto:valbona.treska@umsh.edu.al)

<sup>5</sup> Department of Psychological Studies, Mediterranean University of Albania, Tirana, Albania, Email: [fleura.shkemberi@umsh.edu.al](mailto:fleura.shkemberi@umsh.edu.al)

personality traits, and potential psychological disorders. These evaluations contribute to understanding the underlying factors that influence criminal behavior and inform appropriate interventions or treatment plans. The paper also highlights the ethical considerations involved in criminal assessments, such as obtaining informed consent, maintaining confidentiality, and considering cultural competency. It emphasizes the importance of continuous professional development for assessors to ensure the delivery of high-quality assessments. Furthermore, the paper discusses the role of personal qualities in delinquent behavior, including impulsiveness, the prevalence of negative emotional backdrop, a quest for risky sensations, empathy, altruism, and honesty. It emphasizes the relationship between these personal characteristics and criminal behavior, providing insights into the psychological factors that contribute to delinquency. Overall, this paper aims to explore the crucial role played by psychologists in criminal assessments and understanding delinquent behavior, highlighting the need for a comprehensive approach and ethical considerations in the field of forensic psychology.

**Keywords:** *Psychological, Psycho-social, Disorders, Criminal assessments, Delinquent behavior*

## **Introduction**

Delinquent behavior is described as a criminal act performed by a human that violates civil society laws. The concept of crime is founded on the idea of normalization, which states that an individual's guilt is determined by the norms and regulations that apply in civil society. Society exercises control over individual behavior not just through legal legislation, but also through ethical and moral values. Crime is a sort of conduct that differs from other types of activity in terms of its contextual weight and the community's perception of it. It is critical to distinguish the characteristics that influence the development of criminal conduct while describing the personal attributes of a deviant personality (Chuasanga & Victoria, 2019). Psychological and psycho-social theories that explain such conduct emphasize an individual's personal attributes and view individual idiosyncrasies as a limiting element in criminal behavior. Another interpretation of criminal conduct is that an offender commits a crime because he or she has not established a suitable attitude toward social reality, which is conditioned by his or her emotions. When discussing the commission of an offense, it is very important to consider the individual psychological characteristics, such as the motivational system and general peculiarities of the activity, which form an individual's general strategy; additionally, it is significant to consider the individual's attitudes. In terms of psychological characteristics, a large number of criminals tend to transfer responsibility onto other offenders and justify themselves in order to prove his/her innocence; this category of criminals attempts to achieve the above-mentioned by exaggerating a



victim's guilt, confronting social norms, depreciating social norms, and readdressing responsibility to other/situational factors (McGuire, 2004).

Psychologists and other mental health experts regularly conduct assessments for use in civil and criminal court processes (Melton et al., 2017). In the criminal context, the most common of these assessments are those for competence to stand trial (CST), which refers to the defendant's current ability to understand legal proceedings and to assist his or her lawyer in planning and conducting a defense, and those for criminal responsibility (CR, also known as insanity), which refers to the defendant's mental state at the time of the alleged offense. Despite the fact that these evaluations are performed on a regular basis, there is little information on the standard of practice for these assessments (Gowensmith et al., 2012). The role of psychologists in the context of criminal assessments is crucial in understanding and evaluating the psychological aspects of individuals involved in criminal behavior. Psychologists play a vital role in providing insights into the mental state, behavior patterns, and underlying factors that contribute to criminal acts. Psychologists employ various assessment tools and techniques to evaluate the psychological functioning of individuals involved in criminal cases. These evaluations help in understanding the individual's mental health, cognitive abilities, personality traits, and potential psychological disorders that may influence their behavior. This paper aims to explore the vital role played by psychologists in criminal assessments and understanding delinquent behavior.

## **Method**

The methodology of this paper involves a comprehensive analysis of existing literature to highlight the importance of employing a comprehensive approach when conducting psychological assessments in the context of criminal assessments and delinquent behavior. The methodology focuses on the integration of quantitative and qualitative techniques and emphasizes the consideration of specific factors related to criminal behavior and delinquency to gain a thorough understanding of individuals' psychological profiles. Relevant studies were identified to highlight the significance of employing a comprehensive approach in psychological assessments. The literature was analyzed to identify key themes related to the comprehensive approach in criminal assessments, including psychological evaluations, risk assessments, competency evaluations, and sentencing recommendations. Additionally, the literature exploration delved into understanding delinquent behavior, including its causes, risk factors, and protective factors.

## **Understanding Criminal Assessments and Delinquent Behavior**

The systematic evaluation of persons involved in criminal proceedings to understand their psychological, behavioral, and cognitive functioning is referred to as criminal evaluation. Criminal evaluations are used to obtain information about a person's mental state, personality features, risk factors, and probable treatment requirements (American Psychological Association [APA], 2013). Psychologists perform these evaluations, which use a variety of assessment instruments, procedures, and standardized

measures to collect data and give significant insights into the individual's psychological profile (Mossman, 2013). Criminal assessments serve several purposes, including:

- **Risk Assessment:** Assessing the risk factors associated with individuals involved in criminal behavior helps to determine the likelihood of future offenses or reoffending. This information assists in making decisions regarding supervision, rehabilitation programs, parole, or release.
- **Competency Evaluation:** Evaluating an individual's competency to stand trial involves assessing their understanding of legal proceedings, ability to assist in their defense, and capacity to make informed decisions. Competency evaluations help determine if individuals have the cognitive and psychological ability to participate effectively in their legal proceedings.
- **Psychological Evaluation:** Psychological evaluations provide a comprehensive assessment of an individual's mental health, cognitive abilities, personality traits, and potential psychological disorders. These evaluations contribute to understanding the individual's psychological functioning, identifying factors that may have influenced their criminal behavior, and informing appropriate interventions or treatment plans (Salekin & Lynam, 2010).

Delinquent behavior refers to actions that violate established laws or societal norms, typically committed by individuals who are underage or below the legal age of adulthood. These behaviors are often categorized as criminal offenses when committed by adults. Delinquency can include a wide range of acts, such as theft, vandalism, substance abuse, aggression,

truancy, and involvement in gangs. Delinquent behavior is characterized by its deviant nature and potential harm to individuals or society (Piquero et al., 2007).

Psychologists play a critical role in conducting assessments in the context of delinquent behavior. They utilize their expertise in psychological evaluation techniques, standardized assessment tools, and diagnostic criteria to assess the psychological functioning, risk factors, and underlying causes of delinquent behavior in individuals (Salekin, 2008). By conducting comprehensive assessments, psychologists can provide valuable insights into the psychological profiles of delinquents, which inform treatment planning, intervention strategies, and risk management (Falkenbach et al., 2008).

Psychologists are important in understanding delinquent behavior because they do research, analyze data, and use psychological theories to acquire insights into the underlying causes and contributing elements of delinquency. They investigate individual features, environmental factors, social dynamics, and psychological processes in order to gain a thorough knowledge of why people engage in delinquent conduct (Odgers et al., 2008). Psychologists can help to guide preventative efforts, establish successful intervention programs, and contribute to policy creation by understanding the complexity of delinquency (Snyder & Sickmund, 2006).

## The Psychologist's Contribution to Forensic Psychology

The name forensic is derived from the Latin *forensis*, meaning "Torum," the site where Roman trials were held. The term *forensic* is now used to signify some engagement of a certain subject of study in a legal arena. There is no universally accepted definition of forensic psychology - many differ. More narrow definitions confine forensic psychology to clinical psychology applications to legal matters (typically in the context of evaluating litigants whose mental states are at issue in legal proceedings), whereas broader definitions include applications of all areas of psychology (clinical, developmental, social, and experimental) to legal matters.

The American Psychological Association's diamond of forensic psychology as a specialty provides an example of this narrower scope: *"the professional practice by psychologists within the areas of clinical psychology, counseling psychology, neuropsychology, and school psychology. when they are engaged regularly as experts and represent themselves as such, in an activity primarily intended to provide professional psychological expertise to the judicial system"* (Heilbrun).

Although the origins of forensic psychology may be traced back to the early 1900s, with the application *On the Witness Stand* (Münsterberg, 1908) and the use of mental psychologists in juvenile courts. It will take decades for the discipline to provide the empirical basis required for 10 qualities as an evidence expert lesion on a consistent and unquestionable basis. The application of theory is accepted by both the state and the ally. Both the state and the ally embrace the use of theory, study, and technique to civil and criminal law issues. Doctorates and forensic psychology

programs have been created, and postdoctoral scholarships, albeit limited in number, are available. Continuing education programs, provided by APA-approved sponsors, are easily available to give the skills, training, and information necessary in court.

Specialized training and expertise are essential for psychologists to effectively work in the field of criminal assessments and understanding delinquent behavior (Bartol & Bartol, 2021). They require a strong foundation in clinical psychology, as well as additional training and knowledge in forensic psychology and criminology. This specialized training equips psychologists with the skills necessary to assess, evaluate, and provide insights into the psychological factors underlying criminal behavior (Heilbrun et al., 2019).

### **Ethical Considerations in Criminal Assessments**

Criminal evaluations are important in the criminal justice system because they help with the evaluation and decision-making procedures for offenders (APA, 2017). However, the procedure of carrying out these assessments creates serious ethical concerns. To guarantee fairness, truth, and protection of the rights and well-being of the persons involved, ethical rules and principles must be observed.

Obtaining informed permission from the persons being examined is a crucial ethical aspect of criminal examinations. Individuals must provide informed permission if they understand the goal, nature, and potential

repercussions of the evaluation and willingly choose to participate. Assessors should offer clear and intelligible information regarding the assessment process, including its purpose, potential risks and benefits, and any limits (Melton et al., 2018). Individuals have the freedom to make autonomous decisions about their involvement with informed consent, which enhances their dignity and respect. Another essential ethical aspect in criminal evaluations is maintaining confidentiality and privacy. Professionals should safeguard assessment data confidentially and guarantee that only authorized personnel have access to the information (Lamberti & Weisman, 2011). Confidentiality is essential for establishing confidence between the assessor and the person being assessed, as well as enabling open and honest communication. It is critical to educate individuals on the boundaries of confidentiality, such as when information must be shared with appropriate parties in order to comply with legal and ethical commitments.

Criminal investigations must be performed with cultural competency, acknowledging and respecting persons' various origins and experiences. Biases can lead to faulty evaluations and unfavorable consequences; therefore, cultural competency guarantees that assessments are fair and unbiased. Assessors should be conscious of their cultural prejudices and work actively to reduce their influence on the assessment process. To achieve accurate and reliable results across diverse groups, culturally appropriate assessment methods and methodologies should be employed. The competence and training of the specialists performing the evaluations are important ethical factors in criminal assessments. Assessors must have the requisite knowledge, skills, and training to carry out their responsibilities successfully. They must keep current on the newest research and advancements in their area, as well as conform to professional norms

and rules. Continuous professional development ensures that assessors keep their expertise and deliver high-quality assessments (Pirelli & Gottdiener, 2018).

Assessments should be carried out in a way that minimizes damage and avoids stigma. Professionals should be aware of the possible psychological influence of the evaluation process on individuals, especially when discussing sensitive material. Measures should be made to safeguard the well-being of those being examined, such as offering assistance or referring them to relevant services when necessary. Furthermore, to avoid unwarranted stigmatization and labeling, assessments should focus on the behavior rather than the individual (Clement et al., 2015).

### **The Role of Personal Qualities in Delinquent Behavior**

Recent research revealed that the Academic Performance Index, i.e., the GPA is a better predictor for delinquent behavior than IQ. There is a correlation between academic achievement and delinquent behavior.

*Temperament* is an individual characteristic that greatly influences a person's behavioral model. Despite the significant effect of external conditions, it is widely accepted that temperament is influenced by heredity. Character, sociality, activity level, reactivity, and affectivity are all components of temperament. Temperament is important in a child's contact with the environment; hence, the experience obtained in childhood is well represented in his/her environmental attitudes and socialization process at his/her following age development stages. Psychology identifies personal



characteristics of an individual that are human psychological attributes. When considering these personal qualities in relation to delinquent behavior, they can be divided into two categories: 1) psychological signs that contribute to an individual's fulfillment of delinquent behavior and 2) psychological signs that prevent an individual from committing any delinquent behavior. This distinction is necessary to distinguish between personal characteristics that have positive and negative associations with criminal activity (Walsh & Hemmens, 2010).

*Impulsiveness* is the tendency of an individual to behave without considering the repercussions of his or her actions. Impulsiveness prohibits a person from engaging in intentional conduct. In most circumstances, an impulsive individual's behavior is dictated by the situation; hence, a person can no longer afford to predict the outcome of his or her actions. The study of the association between impulsiveness and delinquent behavior found that in 78 cases out of 80, the relationship between impulsiveness and crime was positive. It should be mentioned that a generally unfavorable emotional background reinforces the link between impulsiveness and delinquent behavior (Lyman, 2018).

*Prevalence of negative emotional backdrop* - reflects an individual's tendency to analyze incoming situational signals through early annoyance and anger. Background negative emotions substantially correspond with delinquent conduct. This consistency holds true for diverse genders and civilizations. According to the findings, the reason for the negative emotional backdrop is a deficiency of serotonin, a chemical element in the human brain. A lot of experts feel that the absence of this element is a direct predictor of an individual's delinquent conduct (ILIN, 2008).

*Quest for risky sensations* (low sensitivity threshold) - This attribute is connected to the adoption of active and risk perception, which leads to the individual's quest for risky circumstances. People that are intentionally seeking powerful sentiments while being socialized choose jobs such as firefighters, police officers, and so on, or they engage in extreme sports. Individuals with a poor degree of socialization yet a great drive to seek dangerous sensations - with a high likelihood - prefer to self-realize through carjacking, robbery, and other criminal activities. A review of the literature reveals a very strong positive link between risk demand and crime (Belkania, 2011).

*Empathy* is the emotional and cognitive ability of an individual to comprehend, experience, and share the feelings and spiritual state of another. The emotional component of empathy allows an individual to experience the anguish of another person, while the cognitive component helps an individual to comprehend the source of the misery. There are those who suffer/bear the anguish of the entire world, while there are others who are unable to understand even the closest person. One of the determinants of criminal behavior is a lack of psychological indication of empathy (Godziashvili, 1998).

*Altruism* is defined as an individual's care for others and consideration of others' interests without regard for one's own. Altruism, on the other hand, might be considered as a behavioral component of empathy. If a person feels empathy for others, he or she will be encouraged to engage in such behavioral action that would relieve the tension of another person. An examination of these personal characteristics found that a lack of altruism

and empathy are closely related to delinquent conduct; the lower the degree of empathy and altruism, the higher the index of anti-social behavior.

*Honesty* is a psychological characteristic. It consists of specific characteristics such as self-discipline, orderliness, scrupulousness, and responsibility. The development of the aforementioned characteristics is closely related to people's effective adaption to the community. The absence of this characteristic is an impediment to the adaption process.

*Acceptability* is a personality quality that covers the openness and perceptibility of diverse people's thoughts and ideas. Friendly, respectful, and cooperative interpersonal connections demonstrate acceptance. Trust in individuals is the most significant indicator of acceptance. Individuals with high acceptability can make concessions in the interests of others and assist others. People with this trait are concerned with implementing pro-social conduct and obtaining social desirability (Law, 2014).

## **Conclusion**

In conclusion, the function of psychologists within the framework of criminal assessments and delinquent behavior is multifaceted and critical. Psychologists bring valuable expertise in understanding the psychological factors that contribute to criminal behavior and can assess the state of one's mind, cognitive abilities, and personality traits of individuals involved in the legal system. Their assessments aid in the decision-making processes, such as determining the ability to stand trial, assessing risk for reoffending, and informing appropriate interventions and treatment strategies. Psychologists also play a crucial role in evaluating the effectiveness of rehabilitation programs and providing expert testimony in court proceedings. By applying their abilities and knowledge, psychologists help to create a more comprehensive understanding of criminal behavior and encourage the development of evidence-based practices and strategies for prevention, intervention, and rehabilitation. Their involvement underscores the significance of resolving psychological issues and factors underlying delinquent behavior and promoting a fair and just criminal justice system.

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Jehona Fejzullai<sup>6</sup>  
Enriketa Sogutlu<sup>7</sup>

## Constructivism in EFL Instruction: Albanian Teachers' Perceptions and Practices

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### Abstract

A lot of research has been conducted in constructivism as a relatively new theory opposing traditional learning theories with its innovative ideas. In the field of English language teaching, however, and teacher's cognitions of educational theories, research is still insufficient in the Albanian EFL context. This study explores Albanian EFL teachers' perceptions of constructivism and their classroom practices. The data was collected from four high school classrooms and two EFL teachers through classroom observations, semi-structured interviews and stimulated recall interviews within a trimester. Results showed that teachers support the constructivist perspective and the existence of its techniques in actual curriculums by implementing it sparingly throughout their lessons. However, data also revealed that the use of constructivist techniques could not be carried out

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<sup>6</sup> Department of Education and English Language, University College Beder, Email: [jfejzullai20@beder.edu.al](mailto:jfejzullai20@beder.edu.al)

<sup>7</sup> Department of Education and English language, University College Beder, Email: [esogutlu@beder.edu.al](mailto:esogutlu@beder.edu.al), <https://orcid.org/0000-0002-2165-5271>



based simply on personal cognitions due to unsuccessful results in students' socio-cultural behavior. The shift in usage of teaching techniques is analyzed and according to classroom implications the collected data is stated as helpful to understand the unconsciously employed techniques compared to the theoretical cognitions of English teachers. The findings were interpreted considering the teachers; understanding of the constructivist teaching process and its suggestions for changes in the role of the teacher and student with the aim of building a perfect environment for teaching and learning.

**Keywords:** *Constructivism, EFL teachers, EFL classrooms, Teacher perceptions, Teaching practices*

## **Introduction**

Constructivism is one of the most recent educational theories that emerged as an innovative perspective of teaching and learning in 1974. Initiated by Ernst von Glasersfeld and developed by educational theorists such as Jean Piaget, Jerome Brunner and Lev Vygotsky, the theory supports that knowledge is actively constructed by learners who explore their environments and build knowledge based on pre-existing information schemas. There are many methods and models which represent constructivist approach for learning such as inquiry based teaching, discovery learning, discussion and debates, peer-assisted learning and reflective teaching (Schunk, 2012). According to the theory, knowledge is co-constructed with social interaction and is a process that lasts and is formed in several layers (Bandura, 1986). In this theory, the teacher acts as a facilitator that encourages curiosity and motivates learners by analysing their existing knowledge and adapting it with proper posed questions at specific moments of instruction (Baviskar et al., 2009). The classroom is student-centered and the curriculum is formulated based on the needs of the student.

Constructivist strategies have also proved to be very useful for students and teachers by making the teaching process active and interesting (Yilmaz, 2008). Many studies have explored teachers' perceptions as well as the actual practicality and applicability of the theory in real-life EFL classrooms (Yilmaz, 2008). Teachers lean on different thoughts regarding constructivism and use it accordingly in EFL classrooms. Since constructivism is new as an educational theory compared to older theories, there are various issues to be considered as to whether it can be successfully

applied in Albanian EFL classrooms or not, and if teachers actually support and practice the theory.

Therefore, this study is conducted with the aim to investigate most frequent teaching techniques used in EFL classrooms and find possible relation to constructivist techniques; to explain teachers' cognitions, beliefs, and ideas of constructivism; to analyze external factors that influence the applicability of the theory. It is a modest contribution to research in further understanding EFL teachers' perceptions of constructivism and their classroom practices.

### **Literature review**

The roots of constructivism are in Jean Piaget's work of age-related development stages which considered a child "a lone scientist of the world" (Hmelo-Silver & Barrows, 2006; Hmelo-Silver et al., 2007). Piaget is considered a biological individualist and therefore constructivism seems to be applied more efficiently in science related fields since they have the proper amount of curiosity to offer for curious learners (Piaget, 1964; 2003). He considered the learning process as internal, private and mental and pointed out the idea that learners should first explore on their own before they share their knowledge with peers (1964). For Piaget, the individual possesses the prime value and puts it in the first place letting aside the social. This point of view was, however, opposed by Lev Vygotsky and Cole, who underlined the importance of the socio-cultural context pointing out that students can learn better by socializing and co-learning (1978). Piaget's revolutionary idea did not support passive learning in which the only source of information is poured from the teacher to a blank or empty "sponge", which is the student (Piaget, 1964; 2003). With his ideas it became more

popular for curriculum designs to integrate student-engaging activities through participation in dialogues, in group work and in self-made projects, thus making students “more involved” in the learning process (Piaget, 1964). Considering these new practices, in the linguistic approach of constructivism, we notice a significant use of all these classroom activities with the aim of learning how to use languages more efficiently in real life situations as well as how to give and receive information in different social contexts.

Vygotsky introduced another perspective of constructivism identifying the social character of learning (1978). Unlike the psychological features of the constructivist theory, social constructivism deals with the importance that social interaction and cognitive learning have in constructing cognitive and emotional images of reality (Yilmaz, 2008). Vygotsky concluded that social interactions are the foundation in cognitive development. Becoming the inventor of social constructivism, he emphasized the importance of human learning by interacting with each other, which is directly related to the linguistic approach of social constructivism and how important the application of the theory would be in English as a foreign language (EFL) contexts (Vygotsky & Cole, 1978).

According to him, knowledge is a social product and learning is a social process (Abha, 2019). In other words, understanding is social from nature, and it is created by interactions with others. Vygotsky explains his theory speaking from a social and personal sphere, considering that perception is actualized only when the internalization of knowledge is created in interaction with others (Yilmaz, 2008).

Vygotsky attaches great importance to dialogue and different types of interaction between the learners (1978). According to him, every operation within the cultural development of the kid happens twice: initially, at the social level, and later, at the individual level; initially between individuals and then among the kids. This is applicable to learners' attention, to logical memory, and to the formation of ideas (Vijayakumari & Jinu, 2013). All higher functions occur as complete relationships between people. Vygotsky sees language as the main medium of interaction and communication and a prerequisite for absorbing and initializing the experiences gained from interaction. Therefore, constructivism as a learning theory, has many prospects in social-based fields where social interaction is more needed than personal exploration (Yilmaz, 2008; Alt, 2014).

Following Piaget, who somehow initiated the basics of the theory, Jerome Bruner established constructivism through his approach of interactionism. Basically, this contributes to a better understanding of the linguistic approach of constructivism, as Bruner explored language development and how learners acquire knowledge by communicating or interacting and therefore developing linguistic expression. Bruner highlights that social interaction is an important factor in child development. It contributes to the use of meaningful language and active participation in creating valid shared meaning through collaborative processes (Bruner, 1961). He argued that "one seeks to equip the child with deeper, more gripping and subtler ways of knowing the world and himself." (Bruner, 1961, pp. 117-118) thus pointing out that learning as a process is constructed based on the human's previous experiences. It is true that we can learn by putting into practice the knowledge we get from experience, but actually the whole learning process is socially related. Experiences show that human beings

learn easier by interacting with each other, by encoding and decoding (Karagiorgi & Symeou, 2005).

Since it was invented, the theory continues to be increasingly employed by teachers all around the world, who try to find the most convenient learning style for their students. It holds that individuals require proper assistance at the right moment. Furthermore, the role of teacher as a facilitator is still necessary. This combination of the right assistance at the right time leads to very effective gain of knowledge in the learning process of a classroom where children try to gain more knowledge by interaction. Research shows that to be a successful constructivist teacher you should not only play the role of the facilitator but also create a conducive and social-friendly environment in the classroom (Abha, 2019). Learning should be contextualized in real-world environments that make use of a context which makes learning relevant (Jonassen, 1991). Usage of the principles and methods of constructivism has demonstrated that these constructive methods of teaching are more effective than the traditional ones (Bandura, 1986; Bandura et al., 2001).

### **Concepts and Definitions**

Constructivism suggests that learners construct their knowledge based upon their pre-existing information by adding it to their knowledge schemas. Learners create understanding of this information in an active way through participating in the process of receiving and giving information rather than passively receiving it (Vygotsky & Cole, 1978). They reflect on the new knowledge according to experiences and they create their own

perspective of the received information according to their personal and social background.

Recent definitely suggest that teachers include in their lesson plans problem-solving activities which put students to the center of the learning process. The aim of the constructivist theory is to guide learners to think on how they can put theoretical acquisition into real-life use through assimilation and accommodation. Hence, language teaching and learning regards many practical everyday activities which can be thoroughly supported by the constructivist teaching model (Bada & Olusegun, 2014). Constructivism is a theory that aims for the instructors to simply be facilitators that provide students with contexts where they can explore and find interesting things about the new information (Hyslop-Margison & Strobel, 2008). According to this approach, every learner should be an active participant throughout the learning process. All said, constructivism is a learner-centered educational theory and to be able to transform our teacher centered educational models has proven to be challenging.

This theory includes significant concepts and processes such as assimilation and accommodation, zone of proximal development (ZPD) and scaffolding, an explanation of which will help in better understanding of this theory.

**Assimilation** is the receiving of new information from the learner who tries to fit it in his pre-existing schemas of knowledge (Piaget, 1964). Every individual has a set of knowledge schemas which are created since he starts grasping and understanding information. His mindset is created by adding more information to those schemas of knowledge.

**Accommodation** is the continuing process of assimilation where the learner takes the new information and tries not to fit the knowledge into the previous knowledge but actually “restores”, “revises”, “develops” and “transforms” the existing schemas to whole new schemas of understanding (Piaget, 1964).

**The Zone of Proximal Development (ZPD)** implies the notion of “the more knowledgeable other” (Harland, 2003). Apparently there is always one or more persons who have a better understanding or skills regarding a specific area. The ZPD is the time that a learner cannot receive knowledge without proper encouragement or guidance. This zone is the time where instruction is much more needed in order for the student to develop the necessary skills (Yilmaz, 2008). This brings another important factor which is the role of dialogue and teacher facilitation for constructivism.

A critical element regarding the ZPD remains the fact that during their lifetime students advance from one approximate area to another, with progress that sometimes is slighter and sometimes larger, depending on various internal and external factors (Vygotsky, 1978).

**Scaffolding** is another constructivist concept that contributes to our understanding of the teacher’s role in constructivism. Scaffolding refers to the role of the teacher in providing learners with enough basic knowledge for them to pass the initial stages of learning a new subject (Bruner, 1961). Educators facilitate, organize, plan the lesson and use the more appropriate techniques to transfer the student exactly where his maximum understanding zone is.



## **Domains of constructivism**

Constructivism is not a single or unified theory; rather, it is characterized by plurality and multiple perspectives. Varied theoretical orientations explicate such different facets of constructivism as cognitive development, social aspects, and the role of context (Yilmaz, 2008).

Cognitive constructivism, developed by Jean Piaget, centers around the concept that knowledge is constructed through active learning and not simply received passively by a single source of knowledge (Piaget, 1964). Furthermore, radical constructivism (Von Glasersfeld (2013) suggests that the acquired knowledge is not necessarily reflecting knowledge of a real world, since every individual has his own construction schemas. In addition, critical constructivism emphasizes a critical evaluation in the communicative ethics used in the classroom between teachers and learners. It fully supports that knowledge is an adaptive process and that it is based on the experiences of the individual.

Social constructivism, according to sociocultural theory, suggests that human development is a social-driven process by which students learn better and faster by interacting with their more educated peers. In the foreign language context, the effects of culture are meant to appear with the appearance of the tools of intellectual development.

Social interaction is the main factor of social constructivism. In order to understand constructivism in the learning process, educators have to restructure their perspectives of teaching.. As social constructivism can be considered the future in the teaching process, educators have to focus on interaction, multiple perspectives, different learning inputs and different environments of learning in order to be able to contribute to this huge world

of information (Le Cornu & Peters, 2005; Gijbels et al., 2008; Bozalek et al., 2013).

### **Constructivism in EFL Instruction**

Based on the main focus of this study, constructivism in the English as a foreign language (EFL) context will be presented in terms of principles that build the ideas of this theory embedded in the classroom. Regarding relevant research, the discussion in this context began after the 1980s and the term constructivism became more frequently used in the context of EFL teaching. In accordance with constructivist principles, Wolff and De Costa point out that constructivist language teaching is a learning process which is prominently autonomous, subjective, student centered and active (2017), while traditional teaching is mostly based on a pedagogical-psychological concept where learners simply “react” to what is being taught and they either accept or reject the information. In constructivism, the learner tries to accumulate the received information and embed it to the pre-existing knowledge by actively changing the cognitive schemas.

Most important to the research is to understand how the sociocultural approach of constructivism is closely embedded with teaching English as a foreign language. Sociocultural approach in teaching English as a foreign language is teaching with interaction, negotiation and collaboration (Yilmaz, 2008). In the process of learning a foreign language, it is important for the teacher to intertwine collaborative learning by using experience and discourse for the students to grasp meanings through peers. Since a foreign language is mostly learned for communication purposes, the sociocultural approach helps to understand how students use their sociocultural backgrounds to add and give from their foreign language knowledge

(Yilmaz, 2008). Recent studies about EFL teachers have shown that the sociocultural approach in constructivism has helped them reach better results in their classrooms.

The EFL teaching process is oriented towards action orientedness and cooperative learning activity, which constitute significant principles of constructivism. Some of the many activities within this approach are pair work, group work and social forms of English speaking activities. The student is frequently asked to take the role of the teacher and so the student learns by teaching. As Wolff and De Costa claim, learning can be influenced by teaching but not in a way as traditional teaching suggests (2017).

Furthermore, Tenenbaum et al. also suggest that knowledge develops internally rather than simply transmitted by the teacher or another learner (2001). In a language classroom, for example, the learner is asked to choose teaching materials for classroom learning; as a result, the ability to make decisions promotes autonomy and learners are able to distinguish their preferable style of learning and recognition of skills. Before being able to decide, the student is informed that with decision comes responsibility and the crucial thing is that his chosen techniques and strategies should be applied actively during learning. Gaining proper learning awareness is followed by language and intercultural awareness which were explained in detail in the socio-cultural approach. However, not all constructivist approaches are applicable to the EFL teaching contexts. For instance, radical constructivism cannot be applied as it has many disadvantages in the explanatory level and in areas of inconsistency. The holistic language experience or the content-oriented EFL instruction is applied in bilingual

contexts and according to it, learning a foreign language is very effective in complex learning environments.

Studies report interesting results regarding the usefulness of constructivism in EFL instruction. Reinfried argues in a more realistic approach to the application of constructivism in EFL teaching opposing learner-centered theories thus being more of an “absolute” and radical researcher (2000). Furthermore, Gul came to the conclusion that using constructivism in EFL teaching is more effective compared to traditional teaching approaches (2016). A study conducted by Al Muhaimed (2013) demonstrated that using constructivist techniques of English language reading comprehension helped students in a school in Saudi Arabia learn how to read faster and better than using the traditional approach. In another study, in a school in India, Sengupta (2015) used an activity with collaborative writing tasks where all students discussed with each other while writing; thus, each student shared their personal knowledge and all of them took what they needed from other students’ knowledge. By scaffolding, the students took claim of their original ideas and also provided a context where other students could generate new ideas and new content through their own engagement. In another example, Nikitina (2010) conducted a study where students used visual aids to prepare projects in groups; the results showed that students learned the foreign language better and faster. In this study, the activities were selected by the students and the results were beneficial to their learning.

### **The role of the teacher in the constructivist classroom**

The principles of constructivism can be applied into different forms by the teacher as a facilitator. The teacher's role is to give experiences to the students, to help them interact with each other in order to encourage and to advance their individual learning (Le Cornu & Peters, 2005; Pitsoe & Maila, 2012). However, teachers must be careful that the experiences they give to the students are within their zone of proximal development (Karagiorgi & Symeou, 2005). As a result, it is clear that it is the teacher's responsibility to make students self-regulated learners. A good teacher might choose catchy topics in order to involve all the students in the process of learning. As questions lead to more questions, students' critical thinking would expand. In such specific cases, collaborative learning comes by way of peer interaction, but it is well structured and mediated by the cooperating teacher (Le Cornu & Peters, 2005).

In a typical classroom, the qualified teacher is the conduit for the effective tools of culture that properly include language, social context and other forms of information access. Learning in the constructivist classroom is constructed, active, reflective, and collaborative and independent inquiry based (Bada & Olusegun, 2015). A teacher is always one of the information resources and not necessarily the primary one. Most importantly, the teacher should assist students to understand their metacognitive process of learning and encourage student autonomy and initiative. During classroom interaction, the teacher facilitates communication in order for students to communicate as clearly as possible in their verbal and written responses since communication is the primary tool of interactionism and language is what explains proper understanding of all concepts.

Research has shown that teachers' perceptions of learning and teaching have a significant influence on their attitudes and approaches to teaching (Borg, 2003; Trigwell et al., 1999) and as a result, affect and determine their classroom practices (Borg, 2003; Sogutlu, 2015). Further research has also demonstrated the positive effects of constructivist learning environment and of implementing constructivist principles in the classroom (Tynjala, 1998; Vijayakumari & Jinu, 2013). Therefore, reconceptualization of teaching philosophies and raising teachers' awareness of learner-centered instruction through constructivist pedagogies become key elements to the accomplishment of teaching objectives.

### **Methodology**

This study uses a qualitative research design to collect the data and analyze them accordingly. The aim of the study is to explore the teachers' cognitions of the constructivist theory in Albanian classrooms and to analyze how constructivism can be embedded into Albanian EFL classrooms. It addresses the following research questions:

1. What are the participant EFL teachers' perceptions of constructivism?
2. Do EFL teachers use constructivist techniques and approaches in their classrooms?
3. What are the constructivist techniques already used and what should be added according to teachers' perceptions?

## **Participants and context**

Participants in the study were chosen from an Albanian public high school in the rural area of the capital of Albania, Tirana. The study is conducted with students of three grades of high school with each grade having three classrooms. Observation was conducted in a trimester period of time from December 2021 to February 2022. All students in this high school have learned English for at least seven years or above during their schooling. All students vary in ages of 15-16 for 10th grade and 16-17 for 11th grade. In terms of proficiency levels, 10th graders are mostly pre-intermediate with almost 30% of them being beginners, while 11th graders are mostly intermediate where 20% is lower intermediate and 30% is upper intermediate based on self-report. Class 10A had 28 students, class 10B had 27 students, classroom 11A had 25 students and classroom 11B had 26 students.

As per the interviews, two teachers volunteered to participate in this study. For purposes of anonymity and confidentiality, we refer to them as teacher A and teacher B. Both teachers had 10-15 years of experience in EFL teaching. The only context in which they have taught English is public high schools and private courses as a second job. Both of them hold a master's degree in the profile of education and teaching EFL for high schools and both graduated from public universities.

The text books used throughout the lectures were named "On Screen" and level B1+ was used for 10th grade while B2 was used for the 11th grade. Not very frequently, extra materials were handed for extracurricular activities and exercises. Regarding assessment, teachers evaluated students by conducting semester exams and a final exam at the end of the year. In

addition to exams, students were assessed for their projects, writing essays, articles or other activities as part of their yearly portfolio.

### **Instruments of data collection**

Two high school EFL teachers were interviewed and four classrooms with a total of 106 students were observed every day during English language lessons. The research data was collected through three instruments: classroom observations, semi-structured interviews and stimulated recall interviews in one high school semester.

Relying on classroom observations, researchers are able to collect direct information from their own observations rather than participants' self-reported accounts. This observational data collected provided the opportunity to gather important information in a real context. Each classroom was observed two days per week with three hours in each lecture which concludes to 72 hours of observation for each classroom. Lectures were not recorded due to the length of the time, however, field notes were taken in almost each classroom by recording behaviors of students and teachers regarding specific topics of EFL teaching in a constructivist context. In order for the analysis to be more clear and specific, separate English teaching topics were chosen in order to explain teachers' techniques.

The lectures chosen to be more analytically explained in the study were mostly grammar topics. Four grammar topics were chosen including past and present tenses, passive voice, modal verbs and future tenses. Grammar topics are considered important in order to distinguish if the teaching method used is constructivist since they are more difficult and complex in terms of explanation. In addition to grammar, two vocabulary sessions were observed and recorded with field notes. The purpose of



classroom observation was to find out teachers' cognitions and perceptions of using constructivism all while observing them in action. On the other hand, the study observed the impact that these traditional and constructivist techniques had on students.

Another very important instrument is the semi-structured interviews. The teachers were asked not very specific questions, but they were rather let to talk freely about constructivism, socio-cultural theory and other EFL educational-related theories. Teacher participants of this study were interviewed separately and several times throughout the observational period; however, only one interview was formally conducted and recorded in an interval of one hour for each teacher. The chosen language for the interview was Albanian in order to not create any misunderstandings and to offer the teachers the opportunity to express themselves in more details. The interviews were later transcribed and translated into English. The interview included questions regarding the best learning theory that could lead EFL instruction to better results, what techniques they preferred to use and which one of them was considered more effective. They were also asked about proper methods to implement English language in classrooms and what techniques seem the students to like or dislike. Which teaching methods students actively participated in and do they think that the implemented curriculum was right for their students.

The last instrument is stimulated recall interview. Stimulated recall interviews include commenting and reminding participants' behaviors throughout the lecture in order to reflect on their daily teaching techniques in accordance to what they have said in their previous interviews. This is not conducted in order to add tension to the participants but for them to

understand why they use specific teaching styles in specific contexts, situations under pressure or depending on each different classroom. For each question, teachers replied about why they used each technique according to which classroom they were teaching, their level, the social context or curriculum-based compulsory strategies. Participants were simulated to recall their teaching techniques and several questions were asked after a grammar lecture, listening and writing session, reading and exam sessions as well. For each lecture observed, several teaching segments especially for grammar and reading were selected and recorded in notes so that they could be discussed after classroom.

### **Techniques of data analyses**

The data for this study was gathered in separate stages and qualitatively analyzed by using the above mentioned methods. All the data underwent the procedure of the six step data analysis from Creswell (2012) which is collecting the data, preparing data for analysis, reading the data, coding the data, coding the description to be used in the research report and finally coding the test for themes to be used in the research report. Once data was collected including observation notes of the students and teachers, recorded interviews, notes from after-classroom simulated recall interviews, the audio recordings were transcribed and translated, all English versions were presented once more to teachers to see for any misunderstood conception. The final version of all transcribed notes and interviews was taken for final analysis and results.

## Procedures

The interviews were conducted after the observation phase. The simulated recall interviews were conducted after different topics of English language lessons were observed. Notes were kept throughout all the observation phase and were later on transcribed and translated. Students were not notified for the observation procedure with the aim of understanding the constructivist impact and so the school, teachers and students were kept confidential since ethical considerations are ensured throughout the study. Each of the participant teachers was given clear and sufficient information about the aim of the study and after their consent, the interviews were conducted and the data was obtained.

## Results

### *Classroom observations*

By observing both students and teachers during their teaching-learning process, we found that students did not participate enough to determine the classrooms as constructivist. As a matter of fact, the classroom was mostly teacher-centered and the students acted as receivers of information. The only source of information provided was the teacher's knowledge and the textbook. The role of the teacher was providing students with all the information and guiding the lesson throughout the whole lesson and it definitely had an authoritarian character. All activities were strictly followed as defined in the curriculum and were skipped partially depending on the students' level and capabilities. Depending on the type of lesson, students could participate when asked. Frequent activities students were

asked to participate were: reading the text in reading sessions, explaining grammar rules they were already taught, reading out writing exercises they were assigned in previous sessions, participating very rarely in group discussions and almost never in listening sessions. Students could add any information during grammar explanation sessions or in discussion groups by raising their hands and taking permission. The teacher would frequently ask students to express their thoughts and opinions on various topics of reading or grammar rules and exercises but only advanced students had the courage to raise their hands. Sometimes, teachers tried to not teach grammar explicitly but did not have any success as students either had no knowledge or were afraid of faulty answers, and because participating actively in the classroom during a teaching session is simply not part of their socio-cultural educational upbringing.

In cases of grammar explanation, the student is taken as a blank slate and considered to know nothing regarding the topic. The teacher might sometimes make references to the Albanian language teaching rules and give several sentences as examples in order to ease students' understanding. However, examples are only given after the rules are written on the board and explained one by one by the teacher. Students are asked to take notes as they will be asked for all these rules in the next grammar session. Students are taught to memorize the rules and all related concepts theoretically. While all grammar rules are explained thoroughly, the teacher asks frequently if there are any questions, but students rarely ask any regardless of their understanding of these rules. Only advanced students who have prior knowledge of the grammar topic might participate partially; however, almost 50% of the class is silent and simply attentive. 10th graders, especially, are all silent but this can be justified as they are trying to adjust to a new

environment with new fellow students and teachers. As constructivism suggests and since this study is conducted in a constructivist perspective, we should accept that all student behavior must be analyzed in terms of socio-cultural approach since social upbringing has a huge impact in the educational experience and therefore not all the teaching-learning process is dependent on teacher behavior. Teacher A for example, definitely has great authority in the classroom but still tries to build interaction whenever she finds it more suitable during the lesson. Based on these observations, we can note that in grammar sessions, constructivist techniques are almost nonexistent but this also varies depending on both teachers, students' temperaments in each classroom and the grammar topic.

**Episode 1: Grammar topic explained in 10th grade.** Teacher A, Passive Voice, Lower Intermediate Level

Teacher A: *“Today we are going to explain Passive Voice, you will notice that this will be very frequently used in upcoming texts, articles and essays so be very attentive and take notes.”* (The teacher uses the students' L1, that is, Albanian. Then the teacher proceeds to explain rules in English)

Teacher writes on the board the definition of passive voice, a table of how verbs change in passive voice in all tenses, the differences between active and passive voice, and finally, after writing the form structure for active and passive sentences, she writes down a sentence and then writes down how it is turned into passive. Students are silent throughout all the explanatory sessions. The grammar rule explanation lasts for almost 15 minutes.

Teacher writes a sentence in active voice: *“The farmers keep the dog in the yard.”*

Teacher A: *“Now, I want you to help me turn this sentence into the passive voice. Any ideas”*

-Students: ..... (quiet, no response)

Teacher: *“Anyone?.....(no response) Okay, I will help you on this one”* and proceeds to explain how to transform the sentence: *“The dog is kept in the yard by the farmers”*

Teacher asks students to open the books and continue with doing some exercises together. The first exercise is done together and some students participate partially. Students then are asked to do the second and third exercise and are informed that they can discuss them with their peers. After ten minutes, students are asked to read the answers in the class. If anyone is wrong, another student is asked to read the alternative and if no one answers correctly, the teacher provides the correct answer.

In this episode there is reflected a grammar session technique that is used in almost every grammar lecture. Grammar is a crucial component in understanding English language and grammar knowledge is necessary in all the other skills. The most important motive for teacher A is to teach grammar for them to be able to use in exercises and in correct writing assignments. Based on the principles of constructivism we can come to these conclusions:

**Constructing knowledge actively, not receiving passive information:** in this and many other classroom observations, we notice that the teacher is the only source of information along with the textbook used for activities. The student receives passive information and tries to construct meaning with the new information but we do not have active feedback to determine the effectiveness of the transmitted knowledge except for the

feedback given in the exercises. Therefore, the teacher and the class is not considered constructivist.

**Using information of real-life situations and constructing knowledge with assistance of social interaction:** The teacher tries to connect the theoretical information to daily-life examples and to simplify the passive voice theoretical part; however, students are still passively listening rather than actively using the passive voice in real-life contexts such as a short dialogue trying to use passive voice. Learning EFL is contextual and cannot be separated from the environment as it is explicitly a social activity. Teacher lets students discuss while doing exercises which is a form of social interaction and it definitely can be considered a constructivist technique. Many students in the episode seemed very interacting and helped each other in case of misconceptions or need of help. In this aspect the teacher and the lesson can be considered partially constructivist.

**Critical, active, authentic, collaborative learning:** Students did not show signs of critical thinking or pondering on the new theory but simply took notes with the aim of learning them by heart. Learning based on repetition is not considered authentic and therefore is not constructivist. The teacher does not actively encourage classroom participation or collaborative learning; neither does she ask questions. Students are only asked to participate in specific parts of the lecture and even then they hesitate to be involved. Therefore, based on this principle, the classroom is not considered constructivist.

**Formative Evaluation:** Students are expected to learn the rules by heart and are going to be asked next class about them. They are going to be evaluated for their correct answers in exercises and if students are active

during the session. Active participation is appreciated and positively evaluated but not properly encouraged. Students will not specifically be assessed for their thinking process, critical thoughts, ideas or innovative thinking. Teacher is motivating in the long process but not very specific on what students need to improve. Therefore, in this case the classroom is not based on constructivist principles.

### *Semi-Structured Interviews*

Based on teachers' answers and thoughts, we came to a mixed conclusion regarding their desire to apply such educational theories into their daily practices and what prevents them with regard to student behavior, feedback, practicality, curriculum and type of lectures. Both teachers supported the idea of constructivism as a whole, however they mentioned that not all principles could be applied in Albanian classrooms and that many constructivist activities could lead to chaotic unmanageable classrooms. Both teachers supported that the teacher should have the greater authority in the classroom even if that concluded in passive learners. Teacher B was more supportive of collaborative learning and critical thinking, while teacher A was supportive but did not put great attention during the teaching process. In terms of social-interaction, dialogues, group talk and projects or presentations, teacher B was very supportive and liked the practicality and the effectiveness these activities had in listening and speaking skills. Teacher A on the other hand, thought that learning could be more effective if it was more individual. The social context in EFL teaching is important, however each student has accumulated separate knowledge and has reached a different level of English. All knowledge is learned by effort she mentions. As for student responsiveness in these kinds of activities, both teachers



agreed that it could be very difficult to mold their behavior into learning new things by exploring more than by listening. They mentioned that the curriculum had many activities of constructivist nature but not all of them are successful and this is due to student behavior and social context. Therefore, teachers seem to understand new pedagogical theories, accept them as positive to learning and teaching, acknowledge that they are present in curriculums but not fully practice them due to external factors. Further discussion of the recalled interviews is also supported with excerpts.

**Excerpt 1 (Teacher A):** *“I believe constructivism is a great theory overall, having students participate and be more interactive during the lecture could generate a fruitful lesson and I could actually understand more of what their level is, however having students interact in matters of new grammar I think it would create much more confusion.”*

Teacher A put more emphasis on grammar and thought that English is better learned by exercises and the best exercises come from grammar examples. Regarding the grammar explanation, teacher A thought that rule explanation is a must and every student should memorize in order to be able to use them. As per other activities, teacher A attaches little to no importance to speaking or listening activities claiming that there was not enough time in the curriculum program to properly address grammar issues, vocabulary exercises or reading passages.

**Excerpt 2 (Teacher B):** *“I believe that a good English teacher should adapt to the students’ needs and actually use any kind of educational theory that suits them best in that situation. I love listening to my students’ ideas in English and when I see them trying to talk regardless of the*

*accuracy, that is when I know I have succeeded in making them like English.”*

We notice that teacher B is more focused on the students' needs and puts the student in the center of the lesson. The teacher's aim is to encourage students to interact more, to be curious and make English more interesting to them either by making topic focus group discussions, role plays, presentations in groups and many other interactive activities that require authentic thought and ideas. However, as seen in the excerpt below, not all EFL activities can be adapted with constructivism as the teacher could be disrespected or not listened to in terms of class management. She also expresses that students must have an innate curiosity and be mature enough to understand that learning should not only come from a teacher source but actually make themselves a source of their own information.

**Excerpt 3 (Teacher B):** *“I am very fond of interactionism in the classroom and I think constructing knowledge in groups, dialogues or any other type of social interaction with their peers is great for their speaking and listening skills in English. Isn't the whole point of learning English to speak and understand it properly? However, every teacher in Albania must have some authority so students respect them enough to actually listen to them.”*

As for students' behavior and what teachers think of their preferences regarding constructivist activities, there is a positive approach towards constructivism as during the observation phase.

**Excerpt 4 (Teacher A):** *“I have seen that students love group discussions and group work but I also notice that the work is mostly done by the most responsible students and the other part receives credit for nothing.”*

*They also love problem-solving activities and slide presentations but I also notice that the lesson sometimes ends up with most students being inattentive and that is why I like traditional teaching in most cases.”*

During the observation phase and based on teachers’ cognitions, students seem to like constructivist teaching activities; they consider them amusing and a way to escape the monotonous theoretical explanation. They also find them as an excuse to interact with their peers and when group discussions are based on an interesting topic, they are flattered to participate and share something of their own ideas. Despite the fun part, the students’ learning outcomes can only be recognized after a long period of time and not directly. Since constructivism is not a regularly tested theory in Albanian EFL classrooms, we cannot know for sure if the theory actually works for Albanian students.

**Excerpt 5 (Teacher B):** *“Constructivism is a very wide theory from what I know and every teacher has a particular style of learning. One of the things I find difficult with every educational theory actually is assessment and with a theory so innovative we teachers wouldn’t know how to assess students”*

The constructivist theory is mostly formative rather than summative and its real purpose is in fact to improve the quality of learning rather than simply grading students on a particular exam. This type of assessment seems to be very vague and baseless to Albanian teachers. Even if they appreciate interactive learners and active responders, they still value it positively but according to them it is not a basis for final evaluation.

*Stimulated Recall Interviews - Factors Contributing to Teacher’s Changing Cognitions*

After several hours of observation and after the interviews were conducted, we found that participant teachers turned back to their traditional ways of teaching despite their reported beliefs and preferences. Teachers continue to disseminate information such as explaining grammar explicitly or translating vocabulary directly whenever they thought it was necessary for students. Teachers are aware that this phenomenon happens and according to their answers they have no other choice but to do what a teacher is supposed to do.

### **Episode 2 (Teacher B): Modal Verbs**

-Teacher: “...*Who is going to tell us what do you know about modal verbs*”

-Students: (Around 7 students proceed to tell what they know shortly and mention some modals they already know).

-Teacher: “*Okay great, now let’s explain the various situations in which we can use them properly*”

Students open their notebooks and proceed to take notes as teachers starts explaining the topic.

Teacher B had expressed that she actively used constructivist techniques wherever seemed useful and classroom observation showed she was actually more open to new educational theories. After the class mentioned in episode 2 the teacher was asked why she didn’t use an exercise as an example and let students derive a conclusion on the modal verbs usage. Her response was:

**Excerpt 6 (Teacher B):** “*Albanian students, at least the students here always need something to focus on, write and take notes, an initiating*

*information to start from. Even if they know the theory very well and they know how to use it perfectly, they still feel like an explanation from the teacher gives them more security about what they already know. And.... Despite all this, we don't have that much time to listen to all students and wait for them to actually come up with concrete and correct results."*

The teachers' cognition changed according to the external factors contributing to the classroom. Sociocultural factors, student temperament, instructional time limits, curriculum and textbooks, students' needs, examinations and assessment pressure as well as classroom management requirements forced them to teach in a particular way opposing their theoretical cognitions. The concept of education is definitely influenced by the Communist era where the teacher was the supreme authority in any occasion and that Albanian thinking of education still views the teacher as the absolute source of knowledge and management. Students also feel "safe" and "relaxed" when there is someone to give answers to their questions and correct their mistakes. A very noticeable issue as well is the limited instructional time. Even though the lecture has been lengthened to one hour and a half, the daily program requires coverage of many topics in that hour and therefore teachers have to follow the curriculum. Teachers have to closely follow the textbooks and this makes it difficult for teachers to find time for extra activities that would boost speaking and listening or interactive communication. This explains why teacher A constantly skips listening and speaking topics in the textbook. Teachers' cognition can be easily subjected to contextual factors and therefore constructivism is highly valued but not always implemented.

## **Discussion**

### **What are EFL teachers' perceptions of constructivism?**

The participant EFL teachers have slightly different perceptions of constructivism and as the interview results revealed, each teacher follows a special pattern of educational strategies used in their classrooms. In the metacognitive perspective of the theory, teachers expressed a positive attitude towards the innovative practices of constructivism only on some specific areas of English teaching. However, the practical use is a matter that is affected immensely by external factors during the teaching process. Teachers are aware that external factors do not always allow the teaching process to run smoothly and so they are obliged to frequently turn to traditional techniques. Teachers also believe that every social group has special types of behavior in the classroom. This proves the constructivist socio-cultural approach explains the teaching-learning process in real-life contexts and not just theoretically.

In comparison to other educational approaches, constructivism has recently entered the Albanian curriculums and Albanian teachers are still not fully aware of all the teaching techniques and strategies due to lack of knowledge on the theory. This cannot provide this research a full and clear result for all Albanian schooling. Due to limited resources of educational theories training and provision of information to educators, Albanian teachers continue using traditional methods of teaching and they also believe that these techniques are necessary for the progress of the academic year within time limits. In general research on teachers' cognitions on constructivism, teachers are mostly fond of new theories in education. Most of teachers have positive perceptions on progressive teaching strategies such

as constructivism, despite the socio cultural factors and their use of traditional teaching strategies, the answer to this question is that EFL teachers' perceptions of constructivism are prone to accepting and encouraging its use.

### **Do EFL teachers use constructivist techniques and approaches in their classrooms?**

Based on the answer to the previous question, there is a slight contradiction between teachers' perceptions of the theory and actual use of its strategies. In many cases, teachers have reported that constructivist method cannot be used for all English language activities and this varies depending on the teachers' personal teaching methods or student temperament and learning styles as well. A very important aspect of learning that every teacher should consider is their students' learning styles and the students' conditions as well. For instance, constructivism supports the autonomy of the learner and teachers use constructivist techniques for individual work, but they also believe that group work helps them advance their learning capabilities. However, activities should have certain restrictions. Albanian students, depending on the region they live, either have a lot of time to deal with individual homework or they do not have time at all due to responsibilities after school. For example, most students in villages or rural areas are obliged to work in order to support their families. Lack of time after school does not allow them to do homework individually, do research in libraries or even have the means to search other sources of information, which makes the teacher the only source of information. Teachers in such areas must find techniques that cover all the lesson and provide the necessary knowledge within class time. They should organize

group work, projects and classroom work so that all students are able to receive all information needed.

In comparison to what teachers do and what they should do, Albanian EFL teachers use constructivist strategies in accordance with their students' needs and their personal requirements. They mostly follow the curriculum and they try to achieve all goals and objectives by the end of the year. Due to lack of time, teachers skip certain topics that seem less "important" than other topics required for students to pass exams. Since the evaluation system is predominantly based on formative exam evaluation in written forms, what is mostly important according to teachers, is grammar, vocabulary, reading and writing exercises. Therefore, they exclude listening and speaking activities which take time to organize in the classroom. Albanian students show lack of speaking skills even though they might understand the language fully, write great essays and stories and do amazing projects. Sometimes, students show that they understand the written language very well but have great difficulty understanding spoken language particularly native speakers. This is due to lack of speaking and listening exercises. However, we should consider that each teacher has special ways of teaching and managing classrooms; not all teachers pay the same attention to different topics of the English language. This proves that there is a variety in use of constructivist techniques in Albanian EFL classrooms.



## **What are the constructivist techniques already used and what should be added according to teachers' perceptions?**

Constructivist techniques that are used in different learning situations are inquiry teaching, group work, group project presentations, cooperative learning and discovery learning. These techniques are moderately used in different classroom levels of high school and always depending on the teacher. Inquiry based learning is based on the question-answer method while presenting a new topic. The teacher that wants to present a grammar lesson with a constructivist technique will teach by asking students about their previous knowledge and let them guess the correct rules by their own mistakes and ideas. Constructivism puts great value to the inquiry teaching method as it enhances students' curiosity, research skills and critical thinking. One of the teachers observed in the research seeks a two-way interaction with her students and invites them to learn meaningfully.

Regarding recommendations from teachers, activities have already started to be part of the curriculum; they just have to be implemented earlier in educational years so students are adapted to the new way of learning. The already existing activities should be observed better in order to have successful results. Finally, the most significant issue to be revisited is the curriculum design and the learning hours which limits them into implementing these methods in the lesson.

## Conclusion

This study explored teachers' cognitions regarding the implementation of the constructivist theory in Albanian EFL classrooms in a high school in a rural area in Albania. Based on teachers' cognitions and classroom observations, the research yielded significant information that can initiate more insights and perspectives into effective EFL teaching in Albania. The study was conducted using three instruments: observation, semi-structured interviews and stimulated recall interviews. The study results although limited, revealed that the teachers had positive views on constructivism and used it partially in terms of classroom activities. Their perspectives are complex and dynamic and inevitably shaped by external factors. Classroom observations showed that despite their cognitions, teachers chose different techniques depending on contextual factors and making decisions was proved to be a complex matter and not simply based on their opinions and beliefs. Observation revealed that Albanian EFL classrooms are not constructivist and even though many constructivist activities were accepted by the Educational Institutes of Curriculum designs, the activities are partly failed by the teaching system.

As part of the improvement of educational theories application, teachers need to undertake initiatives to constantly improve themselves and their teaching skills by updating on the latest and most effective EFL teaching techniques. For instance, they can take part in professional seminars, workshops, trainings and teaching courses. Future researchers should consider using a larger number of teachers for interviews and high schools in Albania in order to obtain more data on the use of the constructivist theory application in EFL classrooms in Albania.

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## The Autobiographical and National Yeast of E. Halili's Poetry under Narrative Interpretive Observation

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### Abstract

Albanian is spoken and written in two main dialects: The tosk and the geg ones. The tosk is used in South Albania and geg in the north Albania. The national literary tradition recognizes achievements in both dialects so much so that the Tosk dialect lies at the core of the construction of what is called the official Albanian language. The geg dialect is a dialect in which important figures and personalities of Albanian culture, art and literature have written, leaving a rich and very enviable fund of literary critics of art and moreover of scholars of language and dialectology. The poet Erenestina Halili writes exactly in the Geg dialect. What makes this enterprise special and that has become part of our study, is the return of this dialect and autochthonous phraseology of the province of Mirdita when this road, it seemed, had already become unexplored. This paper sought to highlight the rare characteristics of the transmission of the geg dialect, the poet's ability to grasp, treat and use them in verse with the right musicality. We also wanted

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<sup>8</sup> Faculty of Education, "Aleksander Moisiu" University, Durres, Albania  
ORCID: 0000-0002-2691-1262  
Email: [almadema@uamd.edu.al](mailto:almadema@uamd.edu.al)

to underline the autochthony and originality of the Albanian land conceived in verses in the volume *Gjâma e erës!*

The hypothesis we tried to test was that of the continuity of the tradition in geg writing by emphasizing special linguistic, ethnographic and anthropological features and characteristics.

The method of study, analysis and comparison revealed that the poet has managed to resume the path left halfway and to pave new paths to follow.

**Key words:** Ethnographic, Geg dialect, Linguistic, Culture, Poetry



## Introduction

In genres of folk poetry, the narrative is as one of the main feature, so they (genres of folk poetry) summarize the legendary epic and the historical one. The legendary epic includes songs about early rites, customs and social relations. These are distinguished by the wide epic stylization and their harmonization according to old artistic models. The poetry may it be folk or individual one is completely universal. It suits to the man, it says in words such a truth that many know but perhaps not everyone has known how to formulate it as a thought, much less as poetry. But to get to the verses, the poet obviously needed a test "under his own skin". He had to penetrate the dark depths of himself, to walk there first, consciously and unconsciously to put himself in communication with each other, until one of them whispers to the thoughts that will later turn it into poetry. Poetry comes by itself with knowledge, or after knowledge, or after experience, or after discovery, or surprise, test, taste, or horror, or... It is the result, in the end, of direct touch by the poet himself. They can by no means be narrating experiences of others (Marku, 2020).

The same sense of judgment, thought and experience encompasses you as soon as you "meet" with the poetry of Erenestina Halili.<sup>9</sup> You are seized by an awakening of the same experiences and feelings, which everyday life has hidden in a corner of your soul or life, it includes an awakening of situations and responsibilities that you thought you had left

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<sup>9</sup> Erenestina Gjergji Halili is a XXI Albanian writer, who usually writes in Geg Dialect, which it is mainly spoken in North and West North of Albania. In Geg Dialect is written Lahuta e Malcis, which is considered to be Albanian Iliad. It is not easy at all to be transliterated even in Albanian and more difficult to be translated in a foreign language!

and could no longer be a part of, of your reality, to shake a distant, ancient, vertical and horizontal call of your traces left in space (which you have to forwards in time) somewhere suspended sometimes by haste, sometimes by redemption, sometimes by arrogance, sometimes from the judgment cut short, sometimes from the impossibility of pulling the gaze between the legs, but, that she had been there, waiting and waiting with a haunted and tired look, that only waiting has!

This kind of responsibility to irrigate the roots of yesterday and to make them future, occupies you, as soon as you meet Halili's poetry and not only...

Her poetry, comes in the whole field of creativity in Albanian poetry as a re-ignition of her fire shining on the remaining coals of civic Geg standard Dialect, as the opening of the left paths half since the time of Gjergj Fishta, Millogj Gjergj Nikolla (Migjen), Frederik Rreshpja or even Jeronim De Rada.

Her poetry does not remain simply the self of the poet and of her soul as wide as time, as deep as pain and as high as honor and pride, but it merges with the characteristics of narration and narrative. Because, each of them introduces a character, talks about him or seeks to tell about him. And if it is not a character, it is an event, and if it is not an event, it is a situation, and if it is not a situation, it is an assembly. And if it is not, it is a monologue, which the poet performs not only with herself as a poet, but also with herself as a human (*daughter, mother, wife, mistress and servant of her god!*).

E. Halili's poetry, within its literary genre, but also as a national cultural identification, seeks to reveal before the eyes of readers a conception or experience that changed within them that they both knew it was there and did not know it was there.

Following the flow that has muddied the best Albanian authors of this type of poetry (Fishta, Millosh Gjergj Nikolla, Rreshpja, De Rada, etc.), the poet has tried and succeeded in bringing a new form to Albanian poetry, form and content, of built under the Geg Dialect of the province of Mirdita or the Dukagjin's Plain, with timbre, sound, echo, clothing and color, personalized noise and darkness.

Personalized are also the themes, characters, toponymy, and shadows of events and situations, which, however, accompany us towards a message.

Some ideas explode with a great breaking force on the intellectual back (ground). This force is so explosive that it may be able to resolve many issues that may have remained pending or in the dark. This is what S. Langer suggests in *Filozofia di una nuove chiave*, approaching our judgment about the "explosion" of E. Halili's poetry, because he will go further, suggesting that after we are familiar with new ideas, after to have become our general legacy of theoretical concepts, our expectations, on efficient uses, gain balance as its popularity and ideas (Langer, 1972).

The explosion and the idea, with the gaining of popularity, turn into seminal ideas, into a stable element, part of the common national heritage.

From the beginning, I want to bend myself not as a par excellence critic; and this not to defend myself against the division and non-division that I will have to do to poetry and prose because to criticize poetry and for poetry is not easy, it cannot even be said that there is a level or degree of measurement of difficulty that can be encountered in its critique.

Poetry is the poet himself at best, because although it is built on words or by words, it is not words, it is a state and when it meets, encounters with the readers, it returns, transforms, is embodied in experience, just as, at least, as it happened with me. And, to undertake to criticize or to make a

critical-analytical writing on the poems, ballads of E. Halili, the difficulty no longer lies in its meaning, because it is intertwined both with the experience of the poet's unit and with the narrative, which exists depending on it, as with the hymn that both together (the poetess and the wind) weave themselves and the whole top of what takes the form of the pilgrimage of "sending" the supreme will.

The whole corpus of E. Halil's creativity in poetry - the visible (Gjâma e eres edition – Halili, 2016) and the invisible (the new edition, Bibulz!) it is a new form of use of language and text, reactivating, as we have tried to say even above, the old tradition with new norms of modern and postmodern creation.

The critical reception' examining of an author's work, especially when dealing with an author who brings new models and consequently provokes the literary system, is a matter of paramount importance because the place of a literary work in the history of literature is inconceivable without the active participation of the receptors being addressed.

And, it is an intellectual trust - the tradition of everyday language is taken further, the dialect of the province where the poet comes from, the national trust - the tradition and customs, colors and national area, must be preserved and treated with the same care as mothers and children in cradles, blood and family trusts - the oasis of childhood is held high, sheltered under the sounds of lullabies, rocking of cradles, tongues of flame in the heath, bloody knees in play and cheerfulness and drilling of needles, embroidering the dowry.

I am sure that Halili, had in her ears and soul the great Albanian writer, Lasgush Poradeci with his desire that we should write poetry not good, but very good, not high but very high, very deep, very wide, to lay the

foundations of the nation's soul ... sound, when it has set itself such distillers and thermometers in its work.

The resounding, the noise, the sound that we have felt, experienced and absorbed, we will try to ignite and puzzle according to this rhythm:

### **The apotheosis of shattering (gĵama) as a reflexive reflection of presentation and mastership**

If we want to be able to explain the term *apotheosis*, we must consider the height from which this term looks at us. Not only as a geographical position but also divine, justified and stable height.

The shattering of the wind, that is, its noise, its power, its wholeness, its tumultuous wind and storm, its wailing and weeping, are not merely natural meteorological practices. In the entire roundabout, the panting, the fury that accompanies, accompanies to the right, identifies the wind, the poet does not believe that she wanted to "put into" in the bag her positional aspect, the height from where it comes and where it stands, but the climbing in a divine status, its way from where the gods come, from gods.

Its murmur and its rolling like a knock between mountains and valleys, between ravines and deciduous forests, it shakes, frightens, whips what it finds, what can and foams in the breeze of lawns, while the real shattering (*gĵama*), the one after which, in an embodiment way, the poet hides and appears, she is stronger, heavier, deeper and wider.

The shattering of her verses is the forgetfulness's shattering of non - forgetfulness, of the days gone and burnt by the dry fences, of the tower where the chimney is blackened and the smoke is no longer emanating, of the place where the bread is made without sour smell, of the threshold of the

door where the grass has sprouted, the dog's bowl without water, of the dried pergola, of the lonely and forgotten convocation, of the nameless assembly and of the lost cemetery. The resound of the wind is an outcry!

The poetry volume, from its inception, brings the poetesses introduction, its reflection in the depth of feelings. Under this depth of feelings and judgments, she is introduced to anyone in this way:

*I'm Era*

*From a Geg child – bearer*

*Daughter of a Geg father*

*.. I come from the ancient ground*

*A season Christmas Eve*

*For the other half I'm still a mount (pg.7)*

The dating with the reader, her friend or mate she does in three words, as in the old age mythical formula (father, son (daughter) and the Holy Spirit) and as to justify apotheosis as a reflex of presentation.

*I - Dad*

*Am - mother*

*Era - ethnicity (religion!)*

From this moment we are familiar with her terrain, where we understand that she - the poetess and the daughter - feels stronger, more alive, and it seems that apparently belongs to her. She has chosen monologue and dialogue as a form of dating with us, because first of all she clarifies with herself and then "turns" towards us... with the desire, - more than the purpose, - to remain, to gain terrain.

The poetess warns us on a horse clopping that the message of the judgment, of the reason, of the purpose, of the expression, of the appearance and disappearance, of the presentation and coming, of the definition and demonstration, of the dialogue and discourse, its position and attitude are essential and inherent.

It is not a compression and a rejuvenation, but it is kneaded and frosted with breast milk and wet sweat, with a wrinkled look and with a shelter hand on the forehead the other among the trough of the heart: she warns: slow down with me, slow down (kadâlë me mú kadâlë) and after appearing as her fairytales that enter and exit freely in her poetry, just like the notes in the pentagram, she casts a challenging gazes and greets you: *May I feel good for you!* (Ndjefsha mir' pë r ty!)  
And yet the warm spirit of a woman is felt!

### **The game of self with herself**

The game of each of us with ourselves and with the other, with the other and with the world, a game of word, of mind and wisdom, a game of feeling and heart, a game that we must be prepared to "play" all with all, and, to be prepared to lose it, if we do not know what the game is (*çka âsht loja*).

The condition evokes the distances and antiquities there on the top of the mountain, where nothing and everything happens: the condition becomes the boundary stone and the message of survival. Let's play a game (*Ta luej m nji loj'*, pg.15) is the playful poetry of the poetess, who hides the game under the carpet. With a not very narrow look, it is immediately understood that what is hidden under the mat is nothing but the philosophy of life: the whole life is a game and we its players and the sooner we realize such a thing, the better players we will be, the better we will feel.

She spreads game everywhere, as especially the children do: in the background, (*n'konar*) all the time but she even stretches it from the beginnings of humanity to the present saying: to the lord's – to the presents (*t'zotit – t'sotit*).

Otherwise, she herself knows how to be a righteous player because, she puts everything on the scales on the stones of weight, because for her, peace, love and death, must be fair to all; everyone should be given the right loan. Still, he returns to what he has hidden under the mat.

Life is hard and it plays you the hard game and if you really want to walk and be for people and with people, you have to take the life easy. The existential force of poetry recalls the existential force of the Franciscan brothers, who all this force turned into philosophy of existence.

The poem '*As the teardrop*' (*Si lodi ma...*) was written with the same spirit, a slippery liquid, which traverses streams and paths of life, paths and shores, wherever the foot of a man walks, especially the woman foot's. A woman's game begins and heels on her.

(*Lâ n'lodi i kena rrug't e pakthimta*

*T'smuta*

*T'dhimta*)

*The teardrop*

*Has washed and cleaned the incurved roads*

*Rotten gotten*

*Pained gotten, (pg. 54)*

The roads that no longer alienate, the roads that are no longer undone, the roads that traverse all women, from the moment of becoming a mother and



sobbing fobbed off in the throat as in the Millosh Gjergj Nikolla's poems, especially when he says

(Lâ n''lod i kena dit't e përhimta  
T'padillta  
T'idhta)

*The heavy gray cried days*

*Sunless*

*Gray and Bitterness*

Because, a mother, for the poetess, is pain in tears, it is to take care of the sun so that it does not get too hot and to take care of the moon so that it does not get too cold.

The other poem 'M'gjove', (Did you listen to me, pg. 16), continues with the refrain of the condition of the game 'Let play a game', (*Ta luejm nji loj*) where the author does not seem to stand on her feet anymore, but somewhere sitting on her knees and her soul is becoming a circle.

Using the past simple tense (in Albanian the use to form) *used to play, used to listen, used to cut, used to wrap*, she underlines the analogy of yesterday that has brought to the state of today.

She further uses the ethical imperative as to show the fragility of her soul dissolved under the eyelash and to invite to the "calming" of souls. But, nevertheless, she rejects the Albanian popular wisdom when she does not agree that with a drop a man can be washed...

As a necklace of the game started with her, comes the poem *I can* (Muj), built on the modal of possibility and permission, where the condition

of the game becomes stronger and almost - solitary. She insists that man can (moreover he has to) overcome the pitfalls of life, especially when he says:

(Muj

... mú çue, kur kâmb't s'i kam t'nigjume,  
 ... me kqyrë shpatit kryekput n'mjegull,  
 ... me kqyrë për nán shtatë pash l'kurë  
 ... m'i shtërgue dhâmt'e fjalën mos m'e qitë...)

*I am able to*

*...stand up when the legs don't answer*  
*...gaze my body even through the murky water*  
*...be looking for the mother under seven skins*  
*...grit the teeth the word without being said... (pg. 17)*

All this anaphoric form of expression elevates the figure of the woman, the mother, the woman whom life neither caresses nor takes with the good and yet they can, and yet they succeed. The meaning of the game at this point takes on other dimensions; the game is already subject to the player's (poetess) conditions, the game is won by her! The use of anaphora, as a stylistic figure, helps to strengthen the expression and separate the meaning of the repeated part, giving also the sense of rhythm.

This message of command from a mother and wife is taken even higher in the poetry *Step out* (Páj), where her language is stricter, wilder and more direct. She has already learned the pitfalls of life, so she instructs:

(páj...mos i beso kujna,  
 ruej as mos m'e mshil,

lené t'hyjë çkáká fryn e qit jáshtë çkáká s'vyn..).

*Step out ... trust no matte*

*Guard neither lock out*

*Let it in what it blows and let it go what's not rate (pg. 22)*

But, the poetess, does not fall into depression, neither get bored nor displays dark tones. She is always energetic, always on the move and with beautiful ideas, even though we see her walking on some bridges, (n'do ura, n'konop) on the rope, at the top of the water, she only greets and blesses, spreading love messages and, if it happens, that he loses the game, again, we feel as she leaves victorious, whispering: May I feel (hear) good for you! (ndjehsha mir'për ty!)

### **Time retrieval, time juncture**

Throughout the volume, time and years do not constitute the same thing. Time walks with its step, years with their breath. The poems, each with its own karma, do not show a correspondence between the age of the poet's eyes, the age of the forehead, the age of the shoulders and the age of the soul. It gives you the impression and the image that there are still children who listen to their grandmother's voice and do not do it when men smoke and make an assembly, but as soon as you focus on this image, you immediately feel deeply the age of intellect and the power of consciousness, so even juggling with time is another very special feature in the whole poetic narrative stream.

The poetess, in relation to time, exceeds this dimension, because time for her is not and does not remain for any moment a physical unit, a unit that has its own measuring instruments. Like Genette, she not only conveys, but chronologically studies the relationship between words and things, showing that "natural language" has been subjected to the recognition of the arbitrariness of the linguistic sign, because as in *Mimologiche*, by Genette (1976), it is highlighted the narrator's play with space and time, its formulation, its proclamation, Halili does the same, playing and letting time be her toy. She implies that she knows well her temporal space and her spatial time.

The researcher's attempt to be inclusive, if not comprehensive, coincides with Genette's inclusive concept, which, while seeking to be inclusive, leads to the discovery of topics that have not been much discussed, of tremendous importance.

By studying the possible relationships between the time of [the narrative] or the time in the story, he (Genette) determines that these relationships can be classified according to the order (events have followed an order different from that which have been told / narrated), rhythm or duration (the narrative, in our case, devotes considerable space to a momentary experience and then quickly enters or summarizes a number of years) and the frequency, the compression of rhythm and frequency in which experiences, events, situations and characters, figures are repeated.

For Genette, an event can be retold and retold many times even though what happened was or is one, unique and exclusive. This line is also followed by the narrative form of the ballads of the volume *Gjâma e erës*, because between retrieval and renewal, both continuous and constant, it seals rhythm, duration and frequency (Genette, 1976).

The frequency of occurrence of an action and in our case of a narrative is rarely discussed, although this turns out to be an important topic. As in the poetry volume we are discussing, the frequency is given to the poetess, not only as a more frequently component of Albanian epic poetry, but also as a new component. This one is being specially introduced by the poetess-researcher, on purpose, consciously. Repetition as assonance, as consonance, as vocabulary and lexeme, as type and number of verses, as location and whereabouts, as characters that enter and leave, as artistic and conceptual clothing, are easily touched on every page of the ballad poetic volume.

Repetition, a common form of action of a high rate of repetition, has emerged as the central technology in some avant-garde novels and coincides with what Genette calls inter-active, in which something that often happens is repeated and repeated in which there is a dense level of frequency and this way of narration, turns out to have a variety of important functions. For the purpose of our volume, it seems that there remains only one function, which we, presented above in the form of "bequests", namely, the need to preserve this provincial color, the need to transmit and send across generations of an identifying and representative value, the roots and branches of national existence.

Therefore, the poetess realizes the frequency of performing actions first through repetition, of events, situations, experiences, that may have happened or they have really happened in a momentary reflection, only once, if we would use Genette's term, in singular, but the frequency of the rhythm and tempo of their use, makes them uniformly present.

Thus, personal, regional or national events, even though they are celebrated, happen, organized, once a year, the spirit of maintaining the tempo, gives

you to believe that other similar events or situations, or not, every day, come out and populate, annual or eternal ones. And it is not just about events!

## 5. Conclusions

The whole volume presented with some of the poems taken in the analysis, tries to highlight the national and traditional features, which are conveyed under the autobiographical and narrative clothing of the author.

E. Halili, at the beginning of the time, aims to identify herself and her experience with the area where the theme of her poems breathes and between her, can call the roots, customs, traditions, life and difficult coexistence in the mountains of Albania, where everything is constructed and works as existence.

Using the Geg dialect as a form of expression, communication and supreme will, the whole volume comes as an attentive and important inter text, where the author takes on the role of mediator.

The poetry does not need a fixed language, dialect or under-dialect to be written and to be perceived. The deeper into the tradition it digs out the more significant. E. Halili through *Gjaâma e Eres*, not only testified she has taken lit up the autochthonous fire, but she also invites her coevals to worm up their hands, their faces and their soul. Mediate her verses she wishes to send forward the old will of conserving the language as a sign of existence and to testify the importance of the national tradition, culture, language and literature. Her step and spirit evolve to deification in the next volume *Bibulz!*

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Bledar Abdurrahmani<sup>10</sup>

## Compensation of Political Convicts in Albania as a Challenge to the Rule of Law and Human Rights

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### Abstract

The change in the political and legal system in Albania gave birth to great hope, not only for the triumph of dignity but also for the correction of injustices towards former political prisoners. In Albania, from 1991 to 2008, a series of legal measures addressed the issue of former political prisoners. Their purpose was not only to legally consider punishment for crimes of a political nature as unjust but also to award compensation. But, in the span of 17 years, they remained a formal statement on paper, an inadequate legal solution that in very few cases became effective. At the beginning of 2008, with the entry into force of the law on the compensation of former political convicts, an administrative compensation process was sanctioned that offered a reasonable solution in terms of time and amount of compensation. However, the subsequent legal changes recognized the right of the state to carry out a compensation process based on budgetary possibilities and did not condition the realization of this process in terms of time. The paper aims

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<sup>10</sup> “Aleksander Moisiu University, Durrës, Albania  
Email: bledar\_abdurrahmani@yahoo.com



to analyze the concept of transitional justice in international and domestic law, highlighting its main instruments, as well as focusing on compensation for former political prisoners in Albania. The work through the analytical and comparative method supports the hypothesis that the compensation of political prisoners designed as an effective tool for correcting the injustice caused during the years of communism is bringing back new injustices, which are incompatible with the principle of the rule of law and human rights. The compensation scheme for political convicts in Albania has created not only legal uncertainty regarding the time of compensation but also that such duration can lead to inequality and discrimination. The paper recommends the need for immediate legal changes to build a fair, fast, and effective compensation mechanism.

**Keywords:** *Transitional Justice, Rehabilitation, Compensation Scheme, Ex-Political Prisoners*

## **Introduction**

The developments that followed the Second World War represent the most important moment in the reformation of the conceptual framework of international law. From a right that addressed issues and elements of relations between states, as its subjects, to a right that as a subject also included individuals who are under the jurisdiction of a state. Precisely, this moment marks an important turning point in the approach of international law, from a right that was an instrument of states, to a right that turned into an instrument of human dignity and basic human values. This shift is undoubtedly dedicated to a new ideology on human nature, basic values, needs, and relationships that characterize it from birth to death, and the role and functions of the state. This ideology was embodied in the regime of basic human rights and freedoms, which were first sanctioned in the Universal Declaration of Fundamental Human Rights and, subsequently, in several other international and regional law documents.

This new approach brought important implications in two aspects. First, if a state has ratified legal documents of international or regional law, the doctrine of fundamental rights and freedoms makes the state automatically responsible for fulfilling the negative and positive obligations associated with the application of any right in its jurisdiction. internal. Secondly, the effectiveness of the guarantee of fundamental rights is no longer only a matter of domestic jurisdiction with the fact, but also of international law, paving the way for the possibility to address violations through the mechanisms of international or regional law.

In the large range of fundamental rights, an important place is occupied by the status of the right to redressal from illegal actions and acts of public bodies. Its legal nature is the object, not only of a series of legal documents of international and domestic law but above all of the jurisprudence of the International Courts and the constitutional ones of the special jurisdictions.

### **The right to redressal in international law and Albanian Constitution**

The right to redressal, which in Roman law is considered a fundamental right based on the principle of redressal, where there is a right there is also a remedy (Laplante, 2007). In international law, for the first time, it was formulated by the Permanent International Court of Justice in the Chorzow Factory case. (Chorzow Factory Case, Germany vs Poland, PCIJ, 1928) This Court, interpreting the principle of redressal, states that it represents a principle of international law and a general concept of law, which means that every violation must be compensated. This principle, as most treated in international law, according to the Permanent International Court of Justice, is based on the restoration of the situation that existed before the violation occurred. At its core is making, as soon as possible, the reparation for the damage suffered as a result of the violation, the elimination of all the consequences that have come as a result of the illegal activity, and the restoration of the previous state as if the violation had not occurred. The redressal consists of the return in kind or, if this is impossible, in the payment of an amount corresponding to the value of its return (Chorzow Factory Case, Germany vs Poland, PCIJ, 1928, p 47). This principle formulated in the Chorzow Factory case and applied later in other disputes that regulate relations and responsibility between states in case of violation of

international treaties or customary international law has had a great influence in the field of human rights (Shelton, 2005).

For the first time, in the field of human rights, the right to redressal was sanctioned in the Universal Declaration of Human Rights. Article 8, this document guarantees every person "the right to have effective legal remedies before competent national courts to redress actions that violate fundamental rights guaranteed by the constitution or by law" (UDHR, Art 8). Later, this right was also provided for in the European Convention on Human Rights, which, in Article 13, sanctioned: "the right of every individual who has been violated the rights and freedoms defined in this Convention, to be offered an effective solution before a national body, even though the violation was committed by persons acting in the fulfillment of their official functions.". A few years later, the right to effective legal remedies was affirmed in the ICCPR, which imposes on member states the obligation to enact laws where necessary to make the rights recognized by the Convention effective. and provide effective remedies for their violation (ICCPR, art. 2, para. 3). Also, Article 14 of the Convention against Torture and Inhumane Treatment sanctions the obligation that "Each State Party, in its legal system, ensures the victim of an act of torture the right to seek reparation and to be compensated fairly and adequately, including the necessary means for rehabilitation as soon as possible. In the event of the death of the victim as a result of an act of torture, those who suffered from it have the right to remedy" (Convention against Torture, art 14). Although the International Convention on Economic, Social and Cultural Rights does not include the concept of domestic legal remedies, the UN Commission on Economic, Social and Cultural Rights has repeatedly stated that the obligation to realize

economic and social rights "by all appropriate means" means the internal provision of legal remedies or other effective means.

In the Constitution of the Republic of Albania, the right to redressal from illegal acts and actions of public bodies is included in the chapter on personal freedoms and rights. The Constitution recognizes everyone's right to be rehabilitated and/or compensated by the law, in case they have been harmed due to an illegal act, action, or inaction of state bodies (Albanian Constitution, art 44). It was not without purpose that the constitution maker created the provision, that for the damage suffered by the illegal acts, actions, or inactions of the state bodies, persons have the right to raise two claims a) rehabilitation, and/or b) compensation of financial interests. Dictionaries of the Albanian language define rehabilitation as the official return to someone of the rights they had lost or were unjustly taken away; restoring the good name or honor that was tarnished; call it good or valuable again (Albanian Dictionary, 1998). Therefore, the right to redressal is closely related to the cause of the damage and the resulting obligation to compensate it. It is a legal institute that finds special treatment in our Civil Code (Albanian Civil Code, art 608) and other legal acts. The obligation to redressal leads to the birth of legal responsibility, the purpose of which is to protect the subject and his property from the consequences of the illegal and harmful actions of the persons who commit such an action (Nuni, 2012). Responsibility means that a subject must be liable on a human, moral, or legal level for facts, actions, or events committed by him or that he is a participant in them and answer to the consequences derived from them (Sherifi, 2023).

If we analyze its purpose and content, we notice that the right to redressal has a complex nature. It is presented as a procedural right, where

the victim must be given the right to complain and be heard before an impartial decision-maker regarding the violation of a right, as well as a material right that implies making adequate reparation for the damage suffered. As such, the right to redressal is closely related to another right, the violation of which results in the arising of the right to redressal. The right to redressal, as a separate right, can have a mixed nature, i.e. personal (non-property) and property at the same time, because it aims not only to protect the financial interests of the subject but also personal ones, dignity, reputation, personality, etc.

### **The right to redressal of former political prisoners, as an instrument of transitional justice**

One of the main challenges of the democratic state during the transition period is how to achieve social justice, how to build a future of peace and economic and social prosperity, and serving the interests of society in general. In this phase of great political, economic, and legal transformations, the realization of the constitutional aspiration of justice requires taking as a basis, not only certain economic and social circumstances or values such as needs, merits, and services but above all also valuing the protection and respect for basic human rights and freedoms, such as freedom, private property, etc., violated for decades during the communist system. This view is based on the presumption that in a democratic order, human rights and freedoms are considered as rights of a natural character, indivisible and inalienable from him. This view, which is known in doctrine as transitional justice, was an expression of the conviction that a country based on democratic values cannot be built and developed without looking at the historical background to see the violations suffered by basic human

rights and freedoms, as well as without repairing as much as possible the consequences of this violation (Williams, 2007).

In 1996, the Parliamentary Assembly of the Council of Europe, through Resolution 1096/1996 "On measures to eradicate the communist totalitarian past", made a valuable contribution to the drafting of a conceptual framework on transitional justice. The importance of this document lay in the fact that it specifically addressed the nature of the reform measures that former communist states must undertake to build a future of peace and social harmony and the effects they bring to the construction and consolidation of the democratic state. One of the main measures that former communist states must undertake as part of transitional justice reforms, is reparative in nature and is related to "...rehabilitation of persons convicted of "crimes", which in a civilized society do not constitute criminal acts and those who have been unjustly punished. Material compensation should also be given to these victims of totalitarian justice and should not be (much) lower than the compensation given to those unjustly convicted of crimes under the current standard Penal Code" (PACE 1096/1996, Art. 8).

Only in 2004, the United Nations Human Rights Committee analyzing the legal obligations imposed on states by the International Covenant on Civil and Political Rights made a clear definition of the right to redressal sanctioning, among others, that "the obligation to provide effective legal remedies to individuals whose rights have been violated as defined by the Covenant, is not fulfilled if those individuals are not offered compensation." Resolution 60/147/2006 of the General Assembly defined what the right to redressal includes, specifically including:

- restitution, measures aimed at returning victims to the initial situation before the serious violations of international human rights law occurred, such as restoration of liberty, enjoyment of human rights, restoration of employment, return of the property, etc.
- compensation, economic measures for physical or mental injuries, lost opportunities, and material and moral damages caused by massive violations of human rights.
- rehabilitation, as measures of medical and psychological care, provision of legal and social services,
- the moral satisfaction of the injured, as measures that shift the focus from the victims to the perpetrators through efforts to prosecute them and establish the truth at the political, legal, scientific, and cultural levels.
- guarantees of non-repetition include institutional reforms and measures aimed at consolidating democracy and rule of law mechanisms, which can minimize the chances that other massive human rights violations will be repeated.

As discussed above, the right to effective remedy that is sanctioned in several documents substantially includes the obligation of states to address past injustices. The wording in the above acts of international law of terms such as effective means, fair means, or appropriate means gives the decision maker great flexibility in repairing as long as there is no concrete definition of these means based on the type and nature of the violation.

Such a legal framework is considered as a source of corrective justice, as part of the doctrine of transitional law. Corrective justice tells us, among other things, what the law essentially allows or requires if someone



has been denied, violated, or violated a good that belongs to them. Undoubtedly, it is impossible to completely correct all violations or infringements of rights. For example, life and liberty lost are irreversible and irreparable. A rapist cannot undo the violation, or dictatorial states cannot erase the damage they have caused to generations. However, these damages can be compensated at least partially, firstly, by an apology, as a measure of moral reparation, as an indicator of feeling, remorse, and reflection, which acknowledges the injustice and takes steps towards the restoration of moral relations. Corrective justice provides grounds for such pardons. Therefore, first, corrective justice requires measures of moral reparation. The demand for a large and deep social, political, and legal apology to those whose lives were taken or their freedom was taken away for criminal figures provided for in the legislation of the communist state, which represents postulates of freedom in a democratic order, represents an obligation essential of the new democratic state.

Second, these measures may also include providing compensation for the injustices suffered. Redressal refers to financial and material compensation. The main goal of correctional justice reforms is to restore justice and social dignity of the victims of communist violence, alleviate suffering, and create favorable conditions for their social reintegration. According to Cohen (2016), the reasons that justify undertaking a reform with a corrective character should not be turned into reasons for the justice of another character, that of distribution (Cohen, 2016). This is because the compensation of former political convicts should not be seen as a benefit in the framework of distributive justice measures, which has as its object the causes of how and why people in a group can have benefits and certain responsibilities regarding the distribution of various goods in society.

In this perspective, the right to redressal includes, on the one hand, the obligation of states to guarantee at the law level the necessary measures that guarantee the rehabilitation of victims of communist violence, as well as ensure the effective procedures for the realization of this right. The purpose of this mechanization of transitional justice, as stated in the Albanian law, is the commitment of the democratic state to the punishment of the crimes of the totalitarian communist regime, the restoration of justice and social dignity or the creation of favorable conditions, for their social reintegration, as well as guaranteeing them a better life. (Law no. 9831/2007, Art. 2) It is unimaginable that the right to an effective remedy, which itself emphasizes the "effective" character of this right with a corrective nature in many international documents, would not be successfully implemented in practice. Such a thing would lead to situations incompatible with the principle of the rule of law that the contracting states undertook to respect when they ratified the ECHR (*Kennedy v. Hungary*, 2006, *Kaic, etc. v. Croatia*, 2008).

### **The right to redressal of former political prisoners given the jurisprudence of the Constitutional Courts of the SEE countries**

For the former communist countries, the unjust punishments that occurred during the period of the communist regime became a matter of justice. The Lithuanian Constitutional Court held the position that: "the primary goal of law in a democratic state, and therefore of the law "On determining the status of politically persecuted persons during the years of the communist regime and Nazism" is justice and its assurance." (LCC, Case

no. 04-01(99), 1999). Meanwhile, the German Federal Constitutional Court about this topic has stated that "the state and society, by the principle of social justice, must share the burden or concern that has been inflicted on certain social groups by sanctioning by law concrete rights for redressal of the victims" (GCC, Decision December 12, 2000). According to this Court, the compensation of political prisoners should have both symbolic and financial value. This means that these people who suffered so much during the communist regime, should not only benefit from something concrete as a sign of the obligation, attention, and commitment of, the state and society towards them. (GCC, BvR 1804/03, 2004). The German Constitutional Court takes the position that: "In the construction of such a compensation system, the legislator has a wide scope of the evaluation, taking into account the nature and purpose of the repair that will be made. In this way, the legislator can determine the amount of compensation according to the financial means available, as well as take into consideration other expenses (ECHR, Von Maltzan etc vs. Germany).

The Romanian Constitutional Court, speaking on the nature of redressal for former political prisoners according to Romanian legislation, emphasizes that the objective of the Law No. 221/2009 is not to return to the same situation before the serious violations of the law of human rights. The goal is rather to produce a moral satisfaction, through the recognition and punishment of the previous measures that brought about the violation of human rights. (RCC, Decision no.1354/2010) Furthermore, the Court assessed that the obligation to assign compensation to persons persecuted by the communist regime has only a moral nature. This point of view, according to this Court, is motivated by several decisions of the European Court of Human Rights, which found that the provisions of the European Convention

on Human Rights do not impose specific obligations on member states to remedy injustices or damages caused by previous regimes. (ECHR, Appl. no. 14849/08, *Ernewein and Others v. Germany*", 2009; Appl. no. 7975/06 "*Klaus and Yuri Kiladze v. Georgia*", 2010).

The Hungarian Constitutional Court invested in the constitutionality of the compensation scheme for former political prisoners, emphasizing the necessity of respecting the dignity and equal treatment of every person who is subject to the law (HCC, Decision, 1-001-1995). According to it, the compensation scheme should have as its central idea the respect of the equal dignity of every person who, due to imprisonment or persecution for political reasons during the communist regime, benefits from the Constitution or the law the right to compensation. Even according to this court, the legislator was not obliged to give compensation to those who were deprived of their life and liberty. In regulating this issue, the legislator has wide discretion both to grant or not such compensation, as well as to determine how much budget funds should be provided for this purpose. (HCC, Decision no. 46/2000).

The right to compensation for political prisoners has been the subject of review and analysis by the Albanian Constitutional Court (ACC, Decision no. 34, 2005). Analyzing the context of the transition, the Court emphasizes that regardless of the many problems inherited from the communist past and the difficulties faced by the state, Albanian society has the moral and historical duty and responsibility to respect the right of redressal of political convicts within the possibilities dictated by the economic and social conditions, taking concrete measures to find a quick, suitable and sustainable solution in this direction (ACC, Decision no. 34, 2005). The Constitutional

Court maintains that the compensation of political prisoners cannot be based on the legal framework of the period before the transition, confirming the retroactive character of this legal reform.

Our Constitutional Court offers the legislator an orientation on the amount of compensation for former political convicts when it states that: "Compensation of ex-political prisoners should be more than symbolic and financial evaluation. The value must take into account the many sufferings of political convicts, their dignity, and the troubles and problems they face in their daily life. Redressal as a whole should be understood as a positive obligation of the state to take appropriate measures that facilitate as much as possible the rehabilitation and reintegration of this category of people in Albanian society" (Ibid). According to the Court, the democratic state compensates these persons according to the conditions of economic and financial opportunities, based mainly on the important principles of justice and equality. This is because... The principle of justice, in essence, requires taking into consideration the interests of other members of society as well as the public interest as a whole. It is impossible to eliminate all the many and deep injustices done over the years to these people by the communist regime. The main goal should be to reduce the consequences of these injustices as much as possible (ACC, Decision no. 30, 2005).

Expressing itself on the nature of the right to redressal, the Constitutional Court emphasizes that "...the right to compensation cannot be treated as a subjective right.". The Court emphasizes the importance of respecting the principle of non-discrimination and equal treatment of all victims of serious human rights violations. According to the practice of the Court, discrimination happens when subjects in the same situation are treated

differently without reasonable and objective legal justification. Of course, the definition of any criterion to qualify objective reasoning depends to a large extent on the value assessment and cannot be precisely defined (ACC, Decision no. 78, 2015). According to it, only in exceptional cases and for reasonable and objective reasons can the different treatment of certain categories of persons who benefit from this right be justified. Such could be the case of differentiation in the treatment of persons who have suffered longer and more in the prisons of the communist regime, differentiation due to age, differentiation of relatives of persons who died or were shot for political reasons, etc. However, what is important to note is that in this case, the principle of equality "... does not mean that all of them should receive the same amount in money, but that all should equally benefit from the same rights, within the space defined by the law" (Kritz, 1995).

### **The nature of the legal framework on the compensation of former political prisoners**

As discussed above, there are essential reasons in international and domestic law that justify the creation of an effective legal remedy, at the level of the law, that will address the issue of compensation for former political prisoners. In the framework of the construction of a scheme of an effective remedy, the main problem faced by the legislator is what nature, and above all, the content will there be such a reform that will address this issue. Its content is closely related to some important characteristics that have a fundamental impact on the construction of a fair, reasonable, and, above all, effective mechanism. It would be completely illogical and counterproductive for the creation of an effective tool to fail in its

functionality, turning into an ineffective tool, holding hostage the realization of the aspiration of social justice towards former political convicts.

Analyzing in turn the main elements that are evident in such a legal reform, we can say that, first, as a transitional justice reform, it has a retroactive or retroactive character. The retroactive character is related to the fact that it refers to legal facts that happened in the past, that is, criminal punishments based on court decisions for political criminal offenses or acts of investigative or administrative bodies in the time of communism. This fact is also clear in the position held by our Constitutional Court, which states that: "reparation and compensation of political prisoners for their suffering or unpaid work during the previous regime, cannot be based on the legal framework of the pre-transition period.". In the function of building the compensation scheme, such punishments are considered unjust (Law no. 9831/2007, Art. 3), and elements such as type and measure of punishment, category of the subject (parent or heir), etc. serve as a basis for its construction. This essential issue of the compensation mechanism, in itself, answers the question of what are the types of punishments that will be considered unjust, and consequently, what are the concrete legal acts, court decisions, acts of the prosecutor's office, investigation, or administrative acts that have served for giving these punishments? Therefore, the legal fact of the past: the decision of punishment, exile, deportation, and treatment in health institutions for crimes of a mainly political nature serves as a basis for rehabilitation and further compensation, that is, as a basis for making a corrective justice.

Secondly, the right to redressal has a personal, non-pecuniary character (Art 6, 7). So, it is part of the personal rights. For this reason, this

feature makes it non-transferable to other persons, unless otherwise provided by law (Nuni, 2012). As we have stated above, the nature of this right is defined directly by the law as a non-pecuniary right. Even in cases where the law has not determined the nature of this right, the Constitutional Court has considered it as such. So, the Romanian Constitutional Court considered it as a personal non-pecuniary right (RCC, Decision no. 1354/2010). Also, the Albanian Constitutional Court, examining the unconstitutionality of the law no. 9260/2004 "On the status of former political convicts", considered such a right as a personal right (ACC, Decision no. 34, 2005). Undoubtedly, the main purpose of such a setting is to limit the effects of this right only to the titular person, or to the category of heirs up to a certain level according to legal definitions.

Thirdly, the nature of the compensation process for former political convicts represents another issue in the discourse of the construction of the compensation mechanism. At the heart of this discussion is whether the law will construct it as a judicial or administrative process. Undoubtedly, the legislator has the margin of appreciation based on such criteria as suitability, effects, costs, speed, nature of the procedures, and burden to decide about jurisdiction. In most countries of Southeast Europe, this mechanism is built as an administrative process, but there are countries, such as the Czech Republic, that have entrusted the compensation process to judicial jurisdiction. The Czech Republic represents one of the South-Eastern European countries that have completed this transitional justice reform, not only because of the positive commitments of the state to financially support its realization but also because of the legal nature of the decisions judicial.



Fourth, another essential issue is the definition of the categories of its beneficiary entities. This issue is closely related to the first issue, with the object of compensation, that is, with the nature of unjust punishments. When talking about capital punishment, then naturally the question is up to what hereditary degree can the right to compensation be extended? More or less the same question arises for other cases. Therefore, even though the right to redressal is considered a personal right, the scheme should answer the question of to what extent it will extend according to the nature of the punishments. Undoubtedly, this is also a matter where the legislator enjoys a wide margin of appreciation, but circumstances such as the type of capital punishment, the long time that has passed since the fall of communism, and the undertaking of the reform have meant that a large part of the persons who suffered the consequences of communism is no longer alive. This circumstance is a *sine qua non* for a wider scope of redressal and also for the category of their heirs. Therefore, it is at the discretion of the legislator the right to determine to what degree of inheritance this right should be realized, and to what degree it is extinguished. In these cases, it is important to respect the standard of equality in the treatment of categories of beneficiary entities.

Fifth, the other important element of the mechanism is the value of compensation. To construct a reasonable value, it is important to consider elements such as the type and length of punishment. Such elements may condition the different financial treatment of categories of beneficiary entities. The margin of appreciation enjoyed by the legislator in this case, must be carefully evaluated about the financial possibilities of the state. The ECHR and the Albanian Constitutional Court emphasized that the democratic state compensates these persons according to the conditions of economic and financial opportunities. (ACC, Decision no. 34, 2005).

However, acts of international law, such as the Resolution of the Parliamentary Assembly of the Council of Europe 1096/1996, have provided essential guidelines on the amount of compensation for former political prisoners, which should not be (much) lower than the compensation awarded to those wrongfully convicted of crimes under the current standard Penal Code (Pace, 1996, Art. 8).

Finally, another issue underlying the construction of the mechanism is the criteria and conditions for granting compensation. These conditions should be considered as a limitation, a) legal, b) based on public interest, and c) proportional to build a compensation mechanism that guarantees the right balance between the public interest and that of protecting the rights of the social category of former political convicts. These criteria can be seen in two perspectives, the broad and the narrow. In the narrow sense, the conditions of the compensation scheme are those related only to the way of granting or executing the compensation, its division into installments, and the duration of the compensation execution procedure. Whereas, in a broad sense, they include, in addition to the above, such limitations as the deadline for submitting the claim for compensation, considering it as a preclusion deadline, the inclusion in the scheme of only a certain category of subjects, and the exclusion of other categories (e.g. of the heirs of the third order), the determination of an amount of compensation even smaller than those given for the current unjust imprisonments, etc. Undoubtedly, the state has the right to set different criteria for a compensation mechanism. This is because the circumstances of the general economic and social development condition the economic possibilities of the state in providing financial compensation to former political convicts (ACC, Decision no. 34, 2005). In the formal legal aspect, they should only be established by law and serve a legitimate purpose

based on the public interest. While in the substantive aspect, the conditions and criteria of compensation must respect the principle of proportionality. This means that the restrictions must not be a disproportionate interference. In the present case, the limitations that come as a result of the criteria established by a legal mechanism, be it compensation, cannot create inequality, discrimination, legal uncertainty, and an unjustified duration of compensation for the category of beneficiary subjects, or even more so excessively or extinguish the right for these reasons. The inadequacy or unjustifiability of each of them may constitute a reasonable cause for violating the right to compensation of former political convicts.

### **The legal framework on compensation for former political prisoners in Albania**

The issue of rehabilitation and compensation of former political prisoners in Albania has been in the attention of the Albanian state immediately after the change of the political and legal system in 1991. Characteristic is the fact that it has been addressed several times in a fragmented manner by a series of laws undertaken especially during the period 1991-1997, but without bringing concrete effects (Law 7514/1991, Law no. 7598/1992, DCM no. 40/1993, Law no. 7748/1993, DCM no. 184/1994, Law 8246/1997). The instrument for the rehabilitation of the politically persecuted in Albania through the form of compensation for unjust imprisonment or persecution was materialized with the approval of law no. 9831, dated 12.11.2007 "On the compensation of former political prisoners of the communist regime". This is because, until 2007, i.e. for about 16 years, the issue of compensation for former political victims

remained a statement on paper. This law began to be implemented in 2009, while its partial effects began in 2011 and followed.

Analyzing in turn the elements of the compensation mechanism sanctioned by the Albanian law, we note that the retroactive character of this scheme is related to the very nature of the law, its object, and purpose and is embodied in the first provisions of the law, from Article 1 until article 5 thereof. Retroactivity is specifically expressed in Article 4 of the law entitled, the criteria for compensation, where the law refers to past legal facts such as capital punishment, deprivation of liberty, exile, and deportation, or having been isolated in the investigator or a psychiatric medical institution proven through relevant legal acts such as court decisions, acts of administrative bodies, etc. Secondly, the law defines the right to compensation for former political convicts and even for their heirs as a personal right (Law 9831/2007, Art 6,7). The purpose of this provision is to limit the transfer of the right in all hereditary degrees as defined in the Civil Code, giving priority to the implementation of the special law according to the old principle, *lex specialis derogate lex generalis*.

Thirdly, Albanian law has built the compensation mechanism as an administrative process. Albanian law divides the administrative procedure of compensation into two stages. The first phase is characterized by the submission of the claim for compensation by the beneficiary subjects who have the burden of proof. Further, the examination, approval (including the financial assessment), or rejection of the right to compensation is carried out by the public body, the Minister of Justice. (Law 9831/2007, Art. 29). As a transitional justice reform, with a temporary character, the law sets a deadline for starting the process of submitting claims for compensation (Law

9831/2007, Art. 19) and a final or preclusive deadline for their delivery. Based on the way Albanian law has built the compensation mechanism, it should be said that the final legal act on compensation is the collective administrative act, the decision of the Council of Ministers for the approval of the list of compensation for former political convicts (Law 9831/2007, art 9). Whereas, the second phase of the administrative procedure of compensation, the one related to the execution of the right, is left to the competence of the Minister of Finance (Law 9831/2007, Art. 13).

Fourth, as far as the beneficiary subjects are concerned, the legal framework for the compensation of former political prisoners divides them into two categories of beneficiaries. The primary one includes the former political convicts of the communist regime, who remained alive, and the non-primary one includes his family members, when the convict is no longer alive, as well as the family members of the executed victims and persons interned or deported to camps (Law 9831/2007, Art. 6). The law allows the right to compensation for the heirs of former political convicts up to the second degree and extinguishes this right for other degrees of inheritance (Law 9831/2007, Art. 8). As discussed above, this is the right of the legislator to extend the right to compensation to a certain category of subjects where the purpose of the compensation itself, which is to restore justice and social dignity of this layer or the creation of favorable conditions for their social reintegration, as well as guaranteeing them a better life (Law 9831/2007, Art 2).

Fifth, the Albanian law on the compensation of former political prisoners determines a reasonable amount of compensation according to the nature of the political punishments. The law stipulates that every political

prisoner, for each day of the sentence served, in prison, psychiatric hospital, prison hospital, isolation in the investigator, from 30.11.1944 to 1.10.1991, shall be compensated in the amount of 2,000 (two thousand) ALL per day, while the persons who suffered internment in the barbed wire fenced camp until 1954, the compensation value is 1,000 (one thousand) lek per day, and other recently interned or deported persons a scheme is provided pension, which is regulated by the decision of the Council of Ministers. Thus, as discussed above, it is at the discretion of the legislator to determine an appropriate amount of compensation. The amount of compensation that the law determines is by the orientation given by the legal acts of regional political institutions, such as the Parliamentary Assembly of the Council of Europe for a compensation equal to that of current unjust imprisonments (Peace Resolution 1096/1996).

Finally, the conditions and criteria for the compensation of former political prisoners represent the last, but not least, element of the mechanism itself. This is because the execution of the right to redressal, as an effective tool for doing justice to these subjects, is closely related to the nature and content of these restrictions. In the conditions when the legislator encounters objective circumstances such as the impossibility of immediate repayment of the financial obligation for the compensation of former political prisoners due to budgetary implications, it has discretion to build a compensation mechanism that imposes such limitations. But, it is important that such restrictions, as we mentioned above, given the constitutional jurisprudence and that of the ECHR, cannot extend to an unreasonable duration that conditions the essence of the right itself, cannot cause inequality or discrimination between subjects, they cannot create legal uncertainty on the

execution of compensation decisions or, even worse, they cannot extinguish the right.

### **Discussion on the legal issues of the compensation scheme**

The conditions and criteria for the compensation of former political prisoners in Albanian law are sanctioned in articles 12 and 32. According to the law, the entire process of compensation in the value of the politically persecuted would be completed in 8 years (Law 9831/2007, Art 32, initial version), according to some criteria or general principles that were defined in Article 12, such as the priority of submitting the request and the equal distribution of funds to all beneficiaries, provided that the value of the compensation is not below 100,000 ALL and greater than 1 million ALL. The sanctioning at the legal level of the general deadlines for granting compensation, according to some criteria and principles, constituted a very important element of the principle of the rule of law, and legal security, in the context of redressing the rights and human dignity of former political prisoners unjustly violated by the communist regime. But, before the implementation of the compensation law had started yet, in 2009, the compensation scheme underwent radical changes, which hit the legal expectations created in about two decades of the category of politically persecuted, sanctioned two years ago, creating a confusing situation (People Advocate, Annual Report 2013).

The legal changes of 2009, firstly, struck the principle of equality of compensation distribution, sanctioning that of proportionality. Secondly, according to these changes, the compensation scheme is no longer determined by the law itself, but by the sub-legal act, DCM. Thirdly, most

importantly, the legal changes repealed the provision on the general 8-year term, according to which the state was obliged to carry out the entire compensation process, no longer having a term on the completion of the process (Law no. 10111/2009). In April 2011, within the framework of the determination of the compensation scheme, the Council of Ministers approved VCM no. 419/2011 "On the approval of the terms and scheme for the distribution of compensation funds for the politically persecuted", which sanctions that the compensation that this category benefits from will be divided into 8 installments, but without giving any deadline on the duration or completion of the process (People Advocate, Annual Report 2013).

The by-law changes of 2014, despite bringing some positive aspects regarding the acceleration of the compensation of the primary category, worsened the normative framework of the compensation scheme and deadlines (DCM, 684/2014). If we analyze their content, we do not find any sanctioned deadline for the realization of the compensation process, nor elements that regulate the scheme as required by law (People Advocate, Annual Report 2015). This decision delegates the right to the Minister of Finance to order the distribution of the next installment according to the budget he makes available, leaving no legal answer and no guarantee at the law level when and how the promised compensation will be received.

The legal framework does not make it clear when subjects have the right to benefit from the indemnity installment. Even, in the conditions where the right to redressal is a private non-pecuniary right, the state's inability to executive compensation decisions may result in the extinction of the right due to the termination of the second heirs. When talking about persons of relatively old age who lost their lives in the first years of the installation of



the communist dictatorship, there can undoubtedly be cases of extinguishing the right to redressal as a result of the non-execution of compensation by the state. Such a situation can lead to inequality and discrimination in the treatment of subjects. Precisely, such inequalities cannot be created due to the ambiguity of the legal framework to determine a reasonable compensation scheme, which could eventually be extended for another 30 years. In 2023, that is, about 16 years after the adoption of the law, the distribution of the fourth installment of compensation has not yet begun. If we analyze the periodicity of compensation, the time that would be necessary to complete this process is about 30 more years from this moment. This would have two serious implications. The first implication is related to the unjustified duration of the execution of compensation decisions, in an extremely unreasonable time of around 50 years, which violates the very essence of the right. The second implication concerns the inequities that the compensation scheme can create. The non-execution of decisions due to the unavailability of funds from the state for such a long time may lead to the extinguishment of the right, due to the suppression of all or some of the heirs of the second rank.

The enforcement of the right to redressal now, according to the law and the by-laws, extends to an indefinite duration. Abolition of the legal deadline for the completion and the continuation of this process conditioned only by the legal and sub-legal determination that connects the execution with the available budget fund and has violated the principle of the rule of law, and especially the legal certainty. The principle of legal certainty as an aspect of the rule of law includes, in addition to the clarity, comprehensibility, and stability of the normative system, also trust in the legal system (ACC, Decision 25/2014, and 15/.2016). According to the

jurisprudence of the ECHR, the predictability and clarity of legal acts and, in particular, the automatic nature of the norm, the alleged vagueness of some of its concepts are closely related to the principle of proportionality (ECHR, apply no. 27238/95, *Chapman vs United Kingdom*, 2001). According to this jurisprudence, the standard of reasonable duration that applies to most administrative procedures or judiciary is an essential element of the right to due process (ECHR, 2021). In its jurisprudence, the ECtHR stated that it is up to the state to organize its legal system in such a way that it is capable of managing the technical and logistical infrastructure to guarantee that the compensation scheme is at all times "effective and fast" (ECHR, *Broniowski vs Poland*, 2004). ECHR in its decisions has emphasized that the scope of assessment enjoyed by the state, although considerable, cannot be unlimited and that the exercise of legislative discretion, even in the context of the most comprehensive reform complex of the state, cannot bring consequences contrary to the standards of the Convention (ECHR, *Broniowski vs Poland*, 2004).

This problem has also been ascertained by the People's Advocate, who, while handling the complaint of a subject for the delay of his request for compensation as an heir of a former political convict, takes a position in his recommendation on the compensation scheme, according to him, the process of compensation has become more difficult and has not progressed at the desired rates, for reasons mainly related to the changes that the legislation has undergone over the years and the non-determination of a reasonable deadline for its completion (Recommendation People Advocate, 2013). The Albanian state, through the restoration of a free and democratic society, has undertaken the commitment to create a legal system for the protection of basic human rights, where Albanian citizens are guaranteed the

exercise of these rights. Also, these rights must be recognized and realized by the state, within a reasonable time, to make possible the benefit, in the concrete case of damages (Rekomandim i Avokatit te Popullit, 2013).

## **Conclusion**

At the center of the doctrine of transitional justice lies the principle that it promotes democracy, revealing the dominant character of basic human rights and freedoms and strengthening the rule of law. The purpose of corrective reforms of transitional justice is the adoption of concrete measures that repair, as much as possible, the injustices of the past. As Teitel points out, these reforms have a functional and symbolic role in the transformational processes of post-communist states (Teitel, 2000). The doctrine of transitional justice considers the time factor, both in terms of the undertaking of reforms, as well as in their progress and conclusion, as essential in their success, in particular, harmony and social peace in general. The issue of transitional justice after about 3 decades after the fall of communism should have been a closed file. According to the doctrine of human rights, it should be a model in the archive of history that shows how the democratic state based on fundamental rights and freedoms challenges evil and manages to turn the course by becoming an example of their triumph. Indeed, the reparative reforms of transitional justice in Albania, such as the return and compensation of property, or the compensation of political prisoners, instead of being an example of forgiveness and justice, created new injustices, challenging the new order legal, in its basic principles, such as the rule of law and human rights.

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Gledis Peza<sup>11</sup>

## **Social and Psychological Factors Related to Filicide: A Literature Review**

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### **Abstract**

The historical moment in which we live is strongly characterized by violence, and the ways and the forms through which it manifests itself are more and more ambiguous, so in many cases recognizing it becomes really difficult. In recent years more than in the past, we have witnessed the spread of a series of murders that took place in familiar circumstances. In a contemporary society, the child is protected and defended by legal regulations, but still, the phenomenon of filicide remains one of the crimes that raise an alarm in public opinion. This article aims to inform the interested professionals of mental health about the consequences of filicide by introducing a broad overview of the topic, including its history,

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<sup>11</sup> Department of Law, Epoka University

Email: [gpeza18@epoka.edu.al](mailto:gpeza18@epoka.edu.al)

definitions, classifications, and the recent findings around filicide. Filicide is an expression of mental illness, it is mainly associated with postpartum depression and is, perhaps, the most dramatic manifestation of this pathology. It is important to know that filicide is a crime that may occur in all cultures either in isolation or as a systematic practice with specific interpretation to each community. There are anthropological, psychoanalytic, and psychiatric explanations that currently try to address this phenomenon. This literature review will analyze the legal and psychopathological factors associated with filicide in order to examine the motivations of what push these mothers to commit such a cruel act to their children. This review has the dual purpose of presenting all this information to the interested parties as well as raise awareness about the importance of prevention and identification of factors leading to such a crime by both the psychological and legal professionals.

**Keywords:** *Murders, Filicide, Crime, Women.*

## **Introduction**

The family is not always that place of security and love that we imagine; sometimes that's the scenery of heinous crimes, not necessarily attributable to subjects with psychiatric disorders. Pregnancy and motherhood are complex and delicate events, but of the utmost importance. Desired or not, the child is fulfilled and grows up in a body that may or may not be suited to his own development. Some women experience this process as something shocking, a foreign body that takes possession of their body, grows inside her and modifies her body. This can determine fear, anguish or obsessive fantasies. Sometimes the trauma of pregnancy is so strong that the woman does not accept the child (Lewis & Bunce, 2003). In a society like the present one, where the child is protected and defended by legal norms, the phenomenon of filicide remains one of the crimes that arouse alarm in public opinion social increasingly strong, both because these actions violence occur in a background such as that familiar, and for the extreme brutality with which he often homicidal conduct occurs. The perpetrating of these conducts, which are implemented internally of the household, highlights so dramatic as the consideration of the familiar place which is based on bonds of solidarity and love and which is intended to protect its members, and at the same time to allow it to develop, socialize and fulfill itself.

There are certain factors and situations where the risk of violence is potentially high, for this reason it is very important to aim at preventing it (Abdullah et al., 2022). From a historical and anthropological perspective, in the past and even nowadays, in many civilizations killing own children was and is not only tolerated but also permitted and encouraged by social and

cultural values. When events of this type occur, public opinion immediately turns to the idea of one undoubtedly "crazy" mother, who killed as a result of her infirmity. Yet, these behaviors do not always arise in a climate of mental illness, but there are cases in which the family environment and its dynamics are pathological (Mugavin, 2008). In these conditions yes they can verify abuses, psychic and physical violence and, in the most serious cases, homicide. As difficult as it is to accept, there are cases in which mothers kill their own child having consciousness and awareness of what they are doing.

In the course of the work done, after having treated the historical-juridical aspects of filicide, will be examined the psychological, psychopathological aspects, the socio-cultural situations and personal motivations that push these mothers to commit such an act cruel to their children. This excursus has the dual purpose of giving life to a classification of the reasons they can lead to the crime, and to try to explain an event that the eyes of public opinion is incomprehensible, especially when you take the bond into consideration in detail that unites the subjects in question.

## **Literature review**

### **2.1 Historical background**

The theme of the murder of the son is an event that occurs in several religions, and if one makes an excursus of history and anthropology you can have one confirmation of this. The legal protection of the life of children, especially if not yet adults, is guaranteed by law in relatively recent times. It is well known that during the period of the Roman Empire, the *pater familias* boasted the right of life and death. In ancient Rome, from the very first moments of upon birth, the child was subjected to the will of the father, who

was the only one who could dispose of the fate of the son. The mother, on the other hand, watched everything with a passive attitude and had no right to be able to intervene. In 16th and 17th centuries, child murder was viewed differently in Europe. Some countries such as France and then England established laws that approached to filicide as a criminal behavior punished by death. Both countries also presumed that the mother who was guilty of committing the crime, should be considered as such until proven innocent. Another change was implemented after the establishment of the Infanticide Acts of 1922 and 1938 in England (Giacchetti et al., 2023; West, 2007). These laws considered the 'adverse' effect that birthing and caring for an infant may have on mother's mental health for up to 12 months after the event which may lead the mother toward mental health problems such as postpartum depression and anxiety (Koenen & Thompson, 2008).

Anthropological studies show how the sacrifice of children is present in the history of Greece and Egypt, and in most cultures. In India and Africa there are cases where, according to the custom, the killing of an infant is not considered as a crime, since the newborn just came into the world and cannot be considered a complete human being, with his own rights and duties (Sedumedi & Winter, 2022).

Anthropologist Mary Douglas made a few observations concerning the fact that in some tribes of Africa, when twins are born, one comes killed, as in their culture this event is considered a social anomaly (Douglas, 1990). It is controversial the fact that two human beings can come into the world by a single person, the mother, in the same time and place. In the Amazon, in the tribe of the Venezuela Yanomani, the practice of infanticide in comparisons of females is a habit at times performed following a precise

ritual, and it comes justified by stating that this is intended to control population growth. In practice, if the newborn is deformed the mother must kill him; in the case of twin birth, the older child is suppressed and weak, or the female if it is twins of different sex. One explanation could be that yes ensures the survival of the species: the child misshapen would be a burden to the group.

## **2.2 What are the reasons of committing filicide?**

Filicide, the murder of a child by a parent, is a multifaceted phenomenon with various causes and characteristics (Bourget et al., 2007). The murder of the own child is known as filicide (Putkonen et al., 2006). The context in which the homicide occurs can be very variable, being able to appear from puerperal psychoses to the presence of domestic violence or the use of the minor as an object to harm the other member of the couple.

As for the victims, although filicide does not refer to the age of the victim, as a general rule, children younger than six months have a higher risk of experiencing lethal violence from their parents. As far as gender is concerned, no differences have been found in Western society in this regard.

It is difficult to determine the reasons that push a person to actively cause the death of one or more of their children. However, some authors such as Resnick (1969) or Putkonen (2016) have tried to make a general classification of the reasons that have arisen in different cases. The search reflects the following categories or types of filicide:

a) **Altruistic filicide**

This type of filicide usually occurs when the child has some type of medical condition that makes or is considered to make you suffer for life or suffers from some type of terminal illness. It is about causing the death of the son or daughter as a method of avoiding suffering. Another subtype of filicide considered altruistic by the person performing it is one that is directly related to the suicide of the abuser himself. The father or mother intends to commit suicide and believes their children will not be able to live or that it would be unfair to abandon them, preferring to kill them before making them face the situation.

b) **Generated by psychosis or mental illness**

While the assumption that the people who perform this type of act are people with mental disorders is unrealistic, the truth is that in some cases filicides are administered in the context of mental illness. An example is during a certain type of psychotic epidemic, in the context of hallucinations or delusions in which the child is confused with a possible enemy, persecutor, assassin, alien or demon.

c) **Unwanted child**

This type of filicide is motivated by the fact that the child was not wanted by the parents or one of them, or by not being able to take care of the child. Technically some authors consider abortion as such, although filicide is usually reserved for children already born. A less debatable and

controversial example is the one that occurs for neglecting the child's needs or abandoning him.

**d) Accidental filicide**

He is considered as such the filicide who was not intended to cause the death of the child, but ends up leading him to it. It is frequent in the context of intra-family abuse or indirect violence to break the will of the couple in cases of gender-based violence. It can also happen in the context of a fight.

**e) Revengeful or utilitarian filicide**

The child's death is used as an instrument of torture and revenge, usually to harm the couple for some kind of harm or rejection. It is a type of indirect violence directed not so much towards the minor himself (his death is for the aggressor less), but with the cause of harm to another person.

### **2.3 The filicide: general characteristics**

The killing of a child is not a very frequently committed crime. However, there are some circumstances and characteristics that can facilitate the commitment of this type of act (Frederique et al., 2023). Among these, it has been observed that many cases of filicide occur in persons with reduced capacity for maternity or paternity. In some cases, there was a deprivation of affection in the parent's own childhood, experiencing the parent-child relationship as something negative in which there was no love and perhaps



some kind of abuse (Frederick et al., 2022). Other possible risk factors are found in young mothers and fathers, whose first child appears before the age of 19 and with few economic and social resources (Barone, et al., 2014). Finally, another distinct profile includes the presence of sadistic and psychopathic characteristics, lack of emotional attachment to the child and use of this as a tool to manipulate, control or attack the other.

There are many cases of filicide that are passed off as completely random episodes, but which in reality hide a well-developed homicidal project. As regards the profile of the filicidal mother, it should be noted that the average age identified by the various studies on the subject ranges from 25 to 30 years (Frederique et al., 2023). A good part has a low IQ, probably also influenced by the lower level of education (Farr, 2022; McKee & Bramante, 2010). As regards marital status, the majority of these women were married or in a relationship at the time of their child's death. Usually these are women living in a delicate socio-economic situation, characterized by financial difficulties and often with a history of abuse and maltreatment behind them. Even the mother's behavior after committing the crime is different depending on the case, as there are many factors that condition it the woman's relationship with her family of origin, the presence and type of mental illness, the ability of introspection and acceptance of murder, the type and quality of life in the prison context, the acceptance of psychotherapeutic and pharmacological treatments (Debowska et al., 2015; & McKee & Bramante, 2010).

The psychological dynamics that can follow filicide are therefore different and it is extremely important to understand them as soon as possible, both for ascertaining the truth in court, and for setting up a

therapeutic intervention aimed at preventing suicide attempts, very frequent in these women, as well as to avoid the recurrence of the crime and, obviously, to guarantee the person's rehabilitation (McKee & Bramante, 2010; & Mugavin, 2005). In some cases, the mothers who have killed their own child tend to make a complete and truthful confession as soon as the crime is committed, in others, however, the mothers continue to maintain, even for long periods, their extraneousness (Valença et al., 2011). An example of the first group can be that of the mother who "survived" a project of extended suicide who, after having killed her son, recounts the crime she committed with great suffering and minute detail. An example of the second group is that of a mother who kills her child because she is unwanted, or that of a mother who tends to forcefully deny her responsibility to the point of attributing it to another person because she is unable, or simply does not want to admit to herself that she had committed such a horrible crime. At the basis of these psychological processes there is often the attempt by the perpetrator of the crime to transform, for psychological defense and in an unconscious way, his own image and that of the victim.

## **Conclusions**

Being a mother brings with it, alongside joy, many anxieties, fears, difficulties, anger, intolerance, which women alone cannot always face, especially when these feelings become insurmountable, overwhelming them. Because these women are often left alone in their fears, despite the fact that in most cases they are surrounded by relatives or husbands, who are not actually present emotionally, even though they are there.

In addition to mental pathology, other important risk factors have also been mentioned in the literature, such as excessive dependence on others and conflicts within the family unit. The risk factors for filicide, compared to those for neonaticide, offer greater possibilities for prevention, not only through the antenatal clinic, but also with postpartum follow-ups that allow high-risk cases to be followed up. Several interventions are possible when anxiety and mood symptoms occur after childbirth.

Certainly, a set of prevention and intervention programs aimed at elevating or moderating the psychological symptoms of mothers can be implemented for the benefit of both maternal and child wellbeing. For example, mothers including fathers as well can be provided with cognitive-behavioral therapies. There are still pre- and post-natal group therapies, which help mothers find reassurance in sharing the same difficulties with other women, as well as home visits, which have been particularly successful in cases of neglect and abuse. More research is needed to be conducted to further explore and identify the factors that lead to cases of high risk, as well as adequate professional training is necessary for professionals who are more in direct contact with mothers, from pediatricians to general practitioners, so that they can immediately address the cases and send them to specialized services.

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[bjes.beder.edu.al](http://bjes.beder.edu.al)

**Address:**

"Jordan Misja" St. Tirana - Albania

**Contact:** e-mail: [bjes@beder.edu.al](mailto:bjes@beder.edu.al)

web: [www.bjes.beder.edu.al](http://www.bjes.beder.edu.al)