

Lustration and Reform in Romania

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Abstract

On August 6th, 2010, the deadline for redrawing a lustration law passed almost unnoticed in political circles. The history of Romanian lustration, begun five years before, had, thus, come to an end.

*The paper will be structured in three chapters, each seeking to highlight some of the key characteristics that made it impossible for lustration and reform to be efficiently implemented in Romania. The first chapter, entitled *On Lustration*, looks at how transitional justice was implemented in other post-communist European states and what key factors that were present there could not be (or are still not) found in Romania. The second chapter, called *On Reform*, attempts to explain that the true essence of post-communist reform was never completely grasped by Romanian political and civil societies. The third and last chapter, *Conclusions*, suggests new ways to tackle the issue of transitional justice and highlights the (still present) need for measures that would steadily do away with the negative remnants of Romania's communist past.*

Keywords: *traditional justice, lustration, reform, communist past, Securitate, P.C.R., pact of silence, Council for Studying Former Security Archives.*

On August 6th, 2010, the deadline for redrawing a lustration law passed¹ almost unnoticed in political circles. The history of Romanian lustration, begun five years before², had, thus, come to an end. Yet, how serious can we consider the attempt at passing the law was? Was it truly a genuine claim for transitional justice or merely a political game which was doomed from the onset and that had very different purposes? This paper looks at the history of lustration in Romania and

¹ PRO TV news broadcast on August 6, retrieved from <http://stirileprotv.ro/stiri/politic/legea-lustratiei-a-fost-ingropata-definitiv-de-parlamentari.html>, on December 1, 2010.

² The original draft of the law was subjected for debate on June 13th in 2005 and is available for viewing at: <http://webapp.senat.ro/senat.proiect.asp?cod=10291&pos=0>, retrieved on January 31, 2011.

attempts to prove that, not only such a law is still necessary (as the very failure to enact one up to this point demonstrates) but it must also be associated with a broader context of reform that will truly and finally sever all the negative ties with the former regime, that still play a role in altering the way in which Romanian society functions.

The paper will be structured in three chapters, each seeking to highlight some of the key characteristics that made it impossible for lustration and reform to be efficiently implemented in Romania. The first chapter, entitled *On Lustration*, looks at how transitional justice was implemented in other post-communist European states and what key factors that were present there could not be (or are still not) found in Romania. The second chapter, called *On Reform*, attempts to explain that the true essence of post-communist reform was never completely grasped by Romanian political and civil societies. The third and last chapter, *Conclusions*, suggests new ways to tackle the issue of transitional justice and highlights the (still present) need for measures that would steadily do away with the negative remnants of Romania's communist past.

For the first chapter, I refer to books and articles that analyze transitional justice (with a focus on lustration) in the other Eastern-European states that broke away from communism in 1989. The aim of this first part is to suggest that efficient transitional justice can only be successfully implemented in the context of a more ample reform program that replaces communist legacy with democratic practice. Without a tandem of the two, any discussion concerning lustration cannot be seriously taken into consideration in any meaningful way. In this sense, Romania's failure to reform is both the cause and the consequence of a lack of lustration.

In the second part I explain why the essence and spirit of what "reform" means was never truly captured by policy makers. Post-communist reform in Romania rarely took the shape of more than patch-work to fix the former regime's more flagrant flaws or adapt to new (mostly economic) realities that the state could no longer cope with using the tools left behind by the pre-revolutionary establishment. In this sense, Romania's suffering over the past 21 years has been closely tied with the absence of a nation-wide strategy for development and integrated policy-making for the consolidation of democratic institutions. As will be seen in chapter two, the only cohesive action taken for national development on a medium and long-term scale has been connected directly with accession to international organizations. Romania's bid for Euro-Atlantic integration was the only more or less concentrated set of efforts (domestically branded as short-term

efforts) that offered incentives for implementing a certain degree of institutional discipline with regard to public policy. However, this came at the price of heavier state-intervention, centralization and control over a newly formed and developing civil society.

The third part builds up on the conclusions of the previous two chapters and draws a parallel between the faulty perception of reform, the most significant political actors and the failure to officially dispose of the legacy of communism via transitional justice in general and lustration in particular.

On Lustration

The act of lustration, or “ceremonial purification”³, refers to the vetting of former Communist officials from public office.⁴ From a legal point of view, any law that seeks to enforce such a measure must stipulate clearly: to whom the law applies (the people defined as being members of the former Communist apparatus which played a great enough role to be considered hazardous for the new regime), what the nature of “purification” is (if the people in question are to be trialed, expelled from office at once or at a later date, forbidden access to what categories of offices or positions, etc) and the duration of the measure (for how long each category of people is to be denied access to public office and how long the law of lustration is to be active). It can already be seen that the issues brought into discussion by such prerequisites is likely to be a judicial nightmare. Simply trying to rightfully identify an individual as a former communist official can be challenging enough, given the many practical, normative and, not least of all, ethical and logistic considerations that need to be answered to. Of course, the ideal situation would be to have clearly established lines of division between repressive and non-repressive offices in a communist regime and sufficient archive evidence to determine who did what. However, especially in the Romanian example, such was not the case. Due to the very nature of the regime, it is virtually impossible to determine, without any reasonable doubt, the mere identity of the individuals

³ According to the Merriam-Webster dictionary, retrieved from <http://mw2.merriamwebster.com/dictionary/lustration>, on December 2, 2010.

⁴ Cynthia Horne, “Late Lustration in Poland and Romania: Better Late than Never?,” *Paper presented at the annual meeting of the American Political Science Association*, Hyatt Regency Chicago and the Sheraton Chicago Hotel and Towers, Chicago, IL, August 30, 2007, p. 2, retrieved from http://www.allacademic.com/one/prol/prol01/index.php?cmd=prol01_search&offset=0&limit=5&multi_search_search_mode=publication&multi_search_publication_fulltext_mod=fulltext&textfield_submit=true&search_module=multi_search&search=Search&search_field=title_idx&fulltext_search=Late+Lustration+in+Poland+and+Romania%3A+Better+Late+than+Never%3F, on January 31, 2011.

responsible for past abuses. Most decisions which could potentially draw condemnation in future years were communicated verbally and often personally from the higher-ups to the lower ranks, making it difficult to trace the source and to identify each contributor and potential perpetrator. In the monolithic regime of Ceaușescu (described as being “sultanistic” due to the total and unrestricted submission of the party and the state to the will of the leader⁵), orders did not always follow a clear chain of command. Orders would trickle-down from the top but would not always make use of the same hierarchy and whoever did not expressly need to know could easily have been bypassed as all were equally obliged to follow instructions from the top. This made it very easy and convenient, in the closing days of the Revolution, to pin the entire blame for the traumas of communism on the dictatorial couple.⁶ Any suspected perpetrator of the former regime could (and many times did) try to claim to have acted on command from the top and even the new government seemed expedient in believing such claims and rushed a trial that would silence the Ceaușescu couple.⁷ How much this was encouraged by the new establishment and to what end remains open for debate and will not be further elaborated in this work. It is sufficient, for the purposes of this paper, to note that, from a legal viewpoint, the very nature of the regime makes proper identification of perpetrators, crimes and accomplices difficult at best. One must also consider that parts of the archives (that likely contained incriminating evidence) have been destroyed, while others still remain inaccessible.⁸ These facts alone, without adding any form of political involvement, would be enough to hamper attempts to enforce effective transitional justice in the early stages of transition.

Transitional justice is a form of dealing with oppressors of a former regime, once that regime has been toppled, and also an attempt to do right by the victims or the descendants of victims. While it cannot claim to be fully capable of ensuring equity and fairness, the process of transitional justice is first and foremost supposed to grant the new regime legitimacy and symbolize severing all ties to the old system for good. It deals mostly with two categories of people: perpetrators

⁵ Juan Linz and Alfred Stepan, *Problems of democratic transition and consolidation: southern Europe, South America and Post-Communist Europe*, John Hopkins University Press, Baltimore, 1996, p. 70.

⁶ Vladimir Tismăneanu, *Stalinism for all seasons: A political history of Romanian communism*, University of California Press, 2003, p. 277.

⁷ *Ibidem*.

⁸ Holger Dix and Corina Rebegea, “The Short History of the Romanian Lustration Law,” Konrad-Adenauer-Stiftung Country Report, July 21st, 2010, p. 4, retrieved from http://www.kas.de/wf/doc/kas_20185-1522-2-30.pdf?100802134740, on December 3, 2010.

and victims. While the tools for compensating the victims have to do largely with restitution of property and recognition of suffering (with some material gain in many cases), lustration is a tool designed to deal with the members of the former regime that are thought to represent a threat to the new order. Lustration is not a form of punishment or a treatment reserved for perpetrators alone, but rather a way of protecting the nascent institutions from being infiltrated and perhaps even hijacked by the old elite. When looking at it from this perspective, it would seem imperative to adopt a lustration law as early-on as possible in the transitional process. However, one must always keep in mind that removing officials from public positions is not always a wise decision if one cannot identify competent and reliable substitutes to put in their place.

In post-war Germany, for example, many of the civil servants and other elites that had worked for the Nazi regime were kept in office for practical reasons.⁹ The reconstruction required skilled bureaucrats and other trained personnel which could not be created overnight. In this particular case, the issue was made easier to cope with due to Germany's resolve to come to terms with its past, accept its history and work to build a better future. The civil service, thus, behaved with utter professionalism, leaving behind any Nazi sympathies that might have existed.¹⁰ As a conquered state, Germany underwent a process of "denazification" in both its Soviet and its Allied occupied zones.¹¹ How this was done differed but the ultimate goal was the same: to eliminate former Nazi officials from higher positions in the state and remove the remnants of the ideology from among the population. The case of post-war Germany, however, is different from the case of Eastern Europe in 1989 and afterward. In the GDR, for example, the reunification that was unilaterally declared opened the way for the institutions of West Germany to extend their reach all the way to the Oder. This helped greatly, as the former communist elite could be completely replaced with officials from the former GFR. This did not, however, eliminate the problems of what to do about the former Stasi collaborators, estimated at about one eighth of the population.¹² Screening and identifying the former perpetrators and exposing

⁹ Taylor Cole, "The Democratization of the German Civil Service," *The Journal of Politics*, Vol. 14, No. 1, February, 1952, pp. 3-18.

¹⁰ *Ibidem*.

¹¹ For further information see Timothy R. Vogt, "Denazification in Soviet-Occupied Germany: Brandenburg 1945-1948," Harvard University Press, Cambridge, MA, 2000 or Toby Thacker "The End of the Third Reich: Defeat, Denazification & Nuremberg January 1944 - November 1946," Tempus, 2006.

¹² J. Moran, "The Communist Tortures of Eastern Europe: Prosecute and Punish or Forgive and Forget?," *Communist and Post-Communist Studies*, vol. 27, no. 1, 1994, pp. 95-109.

the crimes of the Stasi are still ongoing processes.

By contrast, Romania's regime overthrow happened violently and there was no "outside help" when it came to the civil service. Basically, the old elites had to be vetted, removed or prosecuted while, in the same time, creating a new and untainted class of public officials to take their place overnight if the state was to have any real chance to function properly. In Romania, such a feat was not possible, given the conditions. It was the only country where, in 1989, the Communist Party suddenly ceased to exist and left a void of power.¹³ Unlike any other case in East-Central Europe, in Romania there were no political opposition parties or organizations to which power could be turned over. The giant PCR simply collapsed and left all power available to whoever was in the best position to take advantage.¹⁴ As such, it comes as no surprise that the new leaders were the same people of the old administration. Excepting the most high-ranking communist officials and few others, most members of the bureaucracy and the public service remained the same. This is especially true in the case of the Securitate, which was renamed the Romanian Intelligence Service but very little else was modified in terms of its structure or composition.¹⁵ Naturally, since the new establishment had an interest in preserving its position, there was little incentive to change how the state operated, particularly in terms of the secret services (which are essential in any troubled state) and especially in terms of keeping information about the past secret.

If exposing the crimes of the former regime was difficult enough in Germany, where it was possible to replace most public officials, in Romania the process proved next to impossible. The post-revolutionary government showed anything but a willingness to apply transitional justice. The Securitate files were classified for the next four decades; there was no vetting and no attempt to do right by the victims.¹⁶ The trial of the Ceaușescu couple was more a mockery of democratic practices than an actual exercise of justice and legality, yet it was presented to the people, along with the execution, as a triumph of the Revolution. Numerous television reruns showed the dictatorial couple after the execution, in what seemed more of an attempt to explain that the nightmare of communism had ended with them than a successful beginning of transitional justice. As far as the authorities were concerned, executing Ceaușescu was the only thing needed to offer the people satisfaction after more than 40 years of dictatorship.

¹³ Cynthia Horne, *op. cit.*, pp. 30-31.

¹⁴ *Ibidem.*

¹⁵ *Ibidem.*

¹⁶ *Ibidem.*

If lustration itself was impossible due to lack of access to the Securitate's files, other transitional justice measures could have been implemented, such as restitution of property. The Petre Roman government did break-up the large collectivized cooperatives and did redistribute the land; however, this was not an act of transitional justice, as peasants were not given the choice of refusing parcels or of demanding financial compensation instead. Law no. 18/1991 – the Land Law – came at a time of turmoil in Romania and it is likely that, given the upcoming elections of 1992, the measure of a land reform had more electoral purposes. In other words, the new establishment built its legitimacy through redistribution of land and other measures meant to silence the public who opposed it (such as revolutionary certificates and privileges)¹⁷ instead of through immediate steps taken toward transitional justice. Also worth mentioning is that the same degree of restitution was not achieved in the case of real estate. Former owners are still battling to regain properties lost during the communist regime or to be awarded adequate compensation even today.

The fact that almost no time was wasted in drafting, passing and then implementing a Land Law is, most likely, testimonial to the fact that the Romanian state no longer had the means to invest in agriculture. If in 1989, irrigation systems covered about a third of all arable land (around 3.2 million hectares), only a few years later, much of that had been stolen or left to abandonment.¹⁸ The same can be said about industry, infrastructure and others. While these facts may appear to have little to do with transitional justice or lustration, they highlight an inability or unwillingness to reform the state at any level. Basically, the Romanian establishment in the early days of post-communism was content to maintain many of the mechanisms that had been used prior. The situation could be described as that of a child who has managed to escape rigid adult supervision. With no authoritative figure forbidding access to the candy box, the child would most likely indulge to the point of nausea. This is, in many ways, what Romanian society *at every level* did, as there was no incentive to behave otherwise. There are many stories of families who, after being deprived of consumer goods for years or even decades, adopted a lifestyle beyond their means in those early years, only to

¹⁷ Adriana Mica, “The Lustration with Two Heads and the Myriapod Transitional Justice in Romania”, article published on memoria.ro website in 2008, p. 2, retrieved from http://www.memoria.ro/?location=view_article&id=1881&l=en&page=0, on December 9, 2010.

¹⁸ Mihaela Radu, “Distrugerea sistemelor de irigații a secătuit potențialul agriculturii” (The Destruction The Sistem Of Irrigations Ruined The Potential Of Agriculture) in the online version of *Capital* magazine, November 9, 2009, retrieved from <http://www.capital.ro/detalii-articole/stiri/distrugerea-sistemelor-de-irigatii-a-secatuit-potentialul-agriculturii-127717.html>, on December 8, 2010.

accumulate debts later on. From this perspective, it can be argued that the first post-communist government was not heavily preoccupied with democratization but rather with securing as good a position as possible for its members from a political, personal and financial point of view. Events like the “mineriade”, the decision to register the National Salvation Front as a party running for elections (in spite of earlier promises not to do so)¹⁹ the rapid, chaotic and dubious privatization of industry, the Constitution of 1991 and many others, highlight this disturbing tendency to act in detriment of long-term state interests and with complete disregard for the will of society at large. It comes, then, as no surprise that there was no serious discussion concerning lustration until the first electoral turnover in 1996.²⁰

A law concerning Access of Former Communist Officials and Members of the Totalitarian Regime to Public and Political Positions was passed in June of 1998, stipulating what categories of former PCR members were banned from what positions within the state and also creating the Council for Studying Former Security Archives.²¹ However, these measures had only limited effects, as public access to the former Securitate’s files was denied to the public and, thus, there could be no talk of lustration.

Similarly to Romania, Poland also had a difficult time with lustration, the difference being that talks concerning the matter had been initiated as early as 1989.²² Its main issues came, much like in the Romanian case, from a lack of political will to see such measures implemented. Tadeusz Mazowiecki, the first non-communist Prime Minister, had a policy of “forgive and forget,”²³ yet the political advantages of using lustration measures against the opposition proved too tempting. Time and again, information was leaked to the media, causing a wave of distrust to emerge not only against the political class, but against lustration itself.²⁴ The example of Poland is relevant because it offers an example of what has been called “late lustration.”²⁵ By the time the establishment in Poland was willing to make a change to how it went about lustration, fifteen years had already passed from when communism was toppled. By that time, a law forbidding access to public office for members of the former regime’s apparatus was indeed irrelevant. Poland was a member of the European Union and it was difficult to imagine the

¹⁹ Steven D. Roper, *Romania: The Unfinished Revolution*, Routledge, 2000, p. 66.

²⁰ Cynthia Horne, *op. cit.*

²¹ *Ibidem.*

²² *Ibidem*, p. 20.

²³ *Ibidem.*

²⁴ *Ibidem*, p. 21.

²⁵ *Ibidem*, p. 22.

communist legacy could still haunt Polish society. Still, the new president Kaczynski supported laws that were far broader in size, scope, duration and transparency than anything ever attempted before.²⁶ Such laws were not meant to target former officials but bureaucrats, clerks and civil servants at large (journalists, policemen, diplomats, academics, company executives, etc.) By enforcing such measures, the government would target the very core of society. Late lustration is far more expensive, time consuming and delicate to undertake and, for this reason, it is paramount to have a clear definition of who to look for. In this case, screening was supposed to reveal the former secret police collaborators and neutralize the thread they might have posed to society. Poland's determination to discard every remaining communist influence shows that, at least as far as awareness is concerned, society is still preoccupied with its legacy and is prepared to take steps to improve. Romania's standpoint, however, has been far more passive. Even today, society does not seem to want to tackle the issue of its past and any official discussion regarding lustration or the crimes of communism is met with surprising disinterest. Considering that Romania's transition has been, by far, the most painful and arduous of any ECE country, the silence that surrounds problems concerning transitional justice is indicative of "general tacit, de facto amnesty, which is the result of a pact of silence – concluded between politicians and citizens."²⁷

That "pact of silence" was supposed to be broken by the lustration law of 2005. The proposal²⁸ was meant to introduce much tougher measures against former officials, collaborators, bureaucrats and civil servants of the communist regime. In this, it was very similar to the late lustration measures implemented in Poland.²⁹ The notable difference is that, while Polish officials rallied and passed the law, Romanians did not show any signs of eagerness in this direction. Though reports at the time were at least cautiously optimistic as to the benefits of such an endeavor, it became clear in time that many hopes were exaggerated. The law spent the next five years in Parliament. Looking at the timeline, one notices that there was no real sense of urgency surrounding it. From the time it was submitted (June 16th, 2005) and adopted by the Senate (April 10th, 2006), until it was finally

²⁶ *Ibidem*.

²⁷ *Ibidem*, p. 30.

²⁸ For the original text of the law, as well as its progress and subsequent modifications see <http://webapp.senat.ro/senat.proiect.asp?cod=10291&pos=0> (due to technical issues beyond my control, the link may not always function properly).

²⁹ Cynthia Horne, *op. cit.*

adopted by the Chamber of Deputies (May 19th, 2010),³⁰ the law of lustration seemed trapped in a circle reminiscent of the works of Franz Kafka.

May 19th was greeted with some enthusiasm by domestic and international media³¹ after the lustration law was finally approved and sent to the Presidency. However, any supporter of the law had much to be disheartened about when the Constitutional Court blocked the initiative on grounds of unconstitutionality after being solicited by several senators and deputies.³² Its motivation was based on several arguments, most of which were conceptual rather than technical in nature.³³ Firstly, the Court ruled against the idea of “collective guilt”, mentioning that crimes should be assessed on a case-by-case basis, rather than according to a general label.³⁴ Secondly, given that 21 years had already passed, communism was no longer considered a great enough threat to either the regime or public morals so as to justify lustration.³⁵ Thirdly, the European Court of Human Rights is given as an example of jurisprudence. *Zdanoka versus Latvia* and *Ungureanu versus Romania* were cases offered as precedents in which ECHR ruled against restricting civil rights for the sake of lustration.

While the Constitutional Court did admit to the legitimacy of the overall goal, it criticized the law as being disproportionately harsh and questioned whether simply belonging to the former communist apparatus was sufficient reason to justify vetting from offices. In doing so, it basically allows the practices of the past to continue as they always have. Currently, no public official is required to declare having been part of the communist party, only of the secret police. Even so, former collaborators are not considered to be incompatible with most positions and proof of collaboration is difficult to produce, given the fact that secret police archives are still inaccessible to the public or prone to alteration.

The Constitutional Court’s ruling does seem sound at first glance, but there is hardly any technical discussion as to the constitutionality of the lustration law. The Court rejects the idea of retroactive justice but fails to offer satisfactory explanations as to when it may be applied and under what circumstances,

³⁰ For the progress of the law in the Chamber of Deputies see http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=6394, retrieved on January 31, 2011.

³¹ Mediafax saluted the outcome of the vote in an article published later that same day, retrieved from <http://www.mediafax.ro/english/romania-adopts-lustration-law-6134882>, on January 3, 2011.

³² <http://www.hotnews.ro/stiri-esential-7385355-update-curtea-constitutionalalegea-lustratiei-este-neconstitutionalale.html>, retrieved on January 31, 2011.

³³ The full Court ruling can be found at <http://webapp.senat.ro/senat.proiect.asp?cod=10291&pos=0>, retrieved on January 31, 2011.

³⁴ Dix Holger, *op. cit.*, p. 4.

³⁵ *Ibidem.*

especially if considering cases of late lustration such as in Poland. The power of legal precedence is also exaggerated, as the Court seems to attempt more to align itself to ECHR standards than to pursue objective legality according to the guidelines of the Constitution. One can also raise questions as to the political motivation behind the Court's decision, as some of the justices might have been directly targeted had the law been implemented.³⁶ If this is indeed the case, then Romania finds itself in a tragic paradox where those in charge of passing a lustration law are the same people that would have most to lose as a result of it. Because power after 1989 was held by largely the same people as before, lustration never happened. Because lustration never happened, the same people who were in power just after 1989 are still in power today or have had the means to promote their protégées to high-ranking positions.

The very fact that a law of lustration has not yet been passed in Romania is an argument in favor of its necessity. Had such a law been proposed, subjected to public debate and found to be redundant, the argument of irrelevance could have been applied safely. But, given that attempts at such a law have been made, passed, approved by the President and later rejected on grounds of unconstitutionality by a court whose members (they themselves potentially affected by the law) presented a relatively unconvincing argument, is sufficient reason to suspect that there still are enough former communist officials in well-placed positions to stall, block or even reject a law of lustration. One can hardly imagine another reason why a law could be neglected in such a manner or ignored for so long a time by the legislative. Electorally speaking, lustration has been invoked on a regular basis, yet none of the victorious parties has committed to this end. Legislative initiatives seem to linger in Parliament without being given too much thought. On a more humorous note, one could compare the lustration law of 2005 to a sort of political "Boogie-Man" meant to frighten the opposition from time to time. No genuine attempt at lustration is taken seriously, except in the context of political rivalry.³⁷ To have a law, debate on it and reject it as costly and/or unnecessary is a way to bury the issue once and for all; but to drag the issue on for years before finally adopting the law, then reject it on grounds of unconstitutionality and then have it fade into oblivion by "forgetting" to draft a new proposal in due time goes to show the exact level of respect that is manifested toward democratic institutions and practices, transitional justice and political life in general in Romania. In spite of assurances from the president of the Chamber of

³⁶ *Ibidem.*

³⁷ Cynthia Horne, *op. cit.*, p. 37.

Deputies that a new law would be drafted, when the Parliament reunited for the autumn session of 2010, no new proposal was presented.³⁸ If it were not for the parliamentarians' final act of apathy when it came to drafting a new proposal for lustration, it could have been argued that the 2005 law was a genuine effort to promote transitional justice. All those involved (senators, deputies and the president) could have argued good intentions and placed the blame for failure solely on the Constitutional Court. However, every stage of the law's five year track toward eventual rejection is marked by a distinctive sense of indifference. It therefore makes little difference if the Constitutional Court was biased against the law or if the promulgated proposal was indeed unconstitutional after five years of parliamentary debate. The end result is the same: Romanian state institutions continue to function awkwardly and unprofessionally even after two decades of post-communism.

In short, it could be said that the early period of post-communist Romania was not a time of rapid and radical change (as was the case in most other ECE countries) but of a rather slow lagging of the old ways, with the notable exception that the country was required to compete economically in an aggressive free-market in which it lacked the means to perform. Throughout the period, every government either lacked a long-term development strategy or the willingness to apply one which had been proposed. In needing to adapt to the new realities, the Romanian political elite has distinguished itself mostly through patch-work and improvisation rather than a determination to rebuild from scratch. As the next chapter describes, lustration cannot be separated from genuine reform. The two are connected not only in principle, but also in how they are implemented.

On Reform

From an etymological point of view, the noun "reform" means an "amendment of what is defective, vicious, corrupt, or depraved" or "a removal or correction of an abuse, a wrong, or errors."³⁹ When used as a verb, the word has two meanings that are politically relevant:

1. a : to put or change into an improved form or condition
b : to amend or improve by change of form or removal of faults or abuses
2. to put an end to (an evil) by enforcing or introducing a better method or course of action.

³⁸ The story was presented on a news broadcast and is available at: <http://stirileprotv.ro/stiri/politic/legea-lustratiei-a-fost-ingropata-definitiv-de-parlamentari.html>, retrieved on January 5, 2011.

³⁹ Definition taken from the Merriam-Webster online dictionary, available at: <http://www.merriam-webster.com/dictionary/reform>, retrieved on January 31, 2011.

Romanian political discourse over the past 21 years has been mostly preoccupied with the first meaning - that of fixing what is faulty and bringing improvements to what already exists. As described in the previous chapter, the same people were maintained in the same offices as before 1989 and there were few changes in the way the state functioned at institutional level. There has been no government that has not promised reform or employed the term to describe activities which can more appropriately be called experiments. Measures such as a different grading system or different types of evaluation in Education were dubbed “reforms” but hardly any change was brought to the curricula. The students who took the Baccalaureate exam in 2007 will surely remember having one hundred possible topics posted online, as well as the scandal that followed.⁴⁰ Similarly, the students who took the same exam in 2010 had to cope with a different issue, namely not having any more stages of oral examination. This new change in methodology yielded catastrophic results and revealed the flaws of the Educational system.⁴¹ Significant changes were brought to the methodology on an almost yearly basis, yet the principle behind the curricula remained more or less unchanged, with students still having to learn (many times by heart) a large amount of useless information and obsolete skills.⁴² To say that the Ministry of Education, Research, Youth and Sports is lacking an overall strategy would, in this sense, be fairly accurate, as there is a large gap between what is taught in school (even, sometimes, at college level) and what the job market demands. Genuine reform would, in this case, set out to correlate what is offered with what is requested.

Similarly, we can notice a lack of strategy and momentum in many other instances. The Ministry of Tourism and Regional Development has struggled for years to identify a proper country brand to attract visitors. “Romania-Land of Choice,” “Romania-always surprising” and others are just a few examples of how the country was promoted over the years, with little success. Meanwhile, a country brand such as Dracula has been largely overlooked in the place of the Carpathians

⁴⁰ Many students were irritated about the subject which was randomly selected for the written stage of the Romanian Language and Literature exam. For more detailed accounts see: <http://www.hotnews.ro/stiri-arhiva-1056473-lacrimi-bac-din-cauza-subiectelor-romana.htm>, retrieved on January 5, 2011.

⁴¹ In 2010, more students failed the Baccalaureate than at any other time after 1990: http://www.adevarul.ro/locale/bucuresti/BAC_2010-_Astazi_aflati_ce_note_ati_luat_la_examen-_Ramaneti_pe_adevarul-ro_pentru_rezultate_0_291571274.html, retrieved on January 5, 2011.

⁴² Even today, schools in Romania teach obsolete computer programming such as Borland Pascal or MS Dos and there is little or no emphasis placed on practical skills like Internet navigation, MS Office or even Flash or Java programming which could be useful for job applications.

or even sea-side resorts.⁴³

What these examples (and many others) prove is that the prevalent notion of “reform” is distorted. Looking back at the definition, we notice that authorities have thus far tended to emphasize the first meaning of the word and ignore the second. Reform is not a measure taken for the sake of patch-work, but a systematic demolition, followed by reconstruction of an entire system. This is the essence of “enforcing or introducing a better method or course of action.” Reform is not a shallow change but a drastic reevaluation of the principle being pursued. Reform during transition must, therefore, necessarily start by tearing down the principles on which institutions function. Once a new, democratic principle is placed at the core of each institution, one can start to rebuild its functioning around it. For this very reason, transitional justice is best started as soon as the former regime is overthrown. Otherwise institutions will continue to function according to the old principles. The more the process is delayed, the harder reform becomes.

In Romania, it is interesting to see that principles used during communism are still applied today. The Ministry of Education still encourages universities to enroll as many students as possible, thus sacrificing quality for quantity, as the best students are mixed-in with lesser able kin. The government, through subsidies, still encourages industrial giants and state-owned companies operating at a loss. One could cynically conclude that the goals of today are the same as those of communism and the only thing that has indeed changed are the tools used for achieving them. One particularly relevant example is that of the Ministry of Tourism and Regional Development continuing to promote picturesque destinations even though there is hardly any infrastructure capable of taking potential visitors to those respective objectives. For example, the Black Sea coast is advertised as an ideal attraction yet the most convenient means of reaching it from Bucharest (road and rail) are overcrowded in summertime and the housing and boarding opportunities are more of a deterrent for potential tourists. This highlights a complete lack of an integrated national strategy aimed at achieving a set goal.

For the past decades, ministries have seldom, if ever, collaborated efficiently in order to set, pursue and achieve a national goal. The exception that is most commonly invoked is that of the 2000-2004 administration, which was guaranteed

⁴³ *The Guardian* actually expressed astonishment that one of the most famous characters in the world was not integrated into a country-marketing strategy: <http://www.jurnalul.ro/stiri/observator/the-guardian-romania-ignora-dracula-o-marca-erotica-internationala-558461.html>, retrieved on January 5, 2011.

accession into the EU,⁴⁴ however the “efforts toward integration” became “efforts toward accession” as there was no plan for what would follow after January 1st 2007. Every measure taken in that time (from building the Sun Highway to drafting an amended version of the Constitution) was presented as being necessary for European integration but at no time was it mentioned that integration begins with accession and that 2007 would not represent an end of efforts but a beginning. The legacy of that period is perhaps best represented by the degree of suppression that was placed on civil society by the increasingly more powerful state.⁴⁵

Conclusions

In many ways, there is a connection between reform and lustration. Whereas the former is concerned with changing the way in which institutions function (the technical element), the latter is concerned with changing the people that operate within the institutions (the human element). If we indeed consider reform as a complete reorganization of the state, starting from its very principles (as a new Constitution, in fact, does) then we must also acknowledge that new individuals are also required to ensure the state can properly function. The office holders of the former regime were trained and experienced in performing their tasks according to a set of ideas that became redundant once the regime changed. Believing that they would operate differently simply because new principles have been declared would be naïve to say the least. A drastic reform of the institution must therefore always be followed by a reform of the office holders. In this, lustration and reform are both mandatory and inseparable.

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⁴⁵ For this and further details see CIVICUS Civil Society Index: *A Summary of the Romania CSI Project Evaluation*, 2005, retrieved from http://www.civicus.org/new/media/CSI_Romania_Evaluation_Report_Summary.pdf, on January 31, 2011.

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