

The territorial-administrative reform in Albania

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Abstract

The territorial-administrative reform determines the changes in the administration because of territorial changes. These processes aim to increase overall capacity of public sector administration, through the creation of local communities with strong autonomy, capable of having the necessary capacities and means to encourage local development in all its aspects. Every reform process must meet criteria such as the existence of the political will, without which it cannot be fulfilled, changes in legislation, discussions at the regional level as well as support from external factors. In our country, the need to apply such a reform came as a result of various factors, such as: demographic changes, large fragmentation of local government units, lack of efficiency in providing services, inequality in local revenues, etc. This paper will show the evolution of administrative-territorial reform in Albania, the history, the reasons behind a new one and the problems.

Keywords: Local democracy, local government, the territorial-administrative reform, decentralization.

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I. Introduction

The administrative reform is related mainly to the reformation of the public administration. While the territorial-administrative reform shows the changes occurring to the administration because of territorial changes. (Teevali 2009, 27) This type of organization therefore represents a structural dimension of public administration and as such should be compatible with functional and organizational decision-making as well as other dimensions of public administration. (Kjellberg 1988, 8-13) Consequently, the solution of the problems that exist in the administrative system of a country, does not come only from changes in relation to a certain dimension, such as territorial changes. A radical change and a coordinated reorganization of the various dimensions of public administration is needed. The goal of a reform is to increase the overall administrative capacity of the public sector, and the amalgamation of local units is seen as a way to ensure this, at the local level. That a reform survives the time, it would be necessary to analyze how this could be in line with contemporary local democracy. What is local democracy? The theory of local democracy appeared when Thomas Jefferson, in the early twentieth century. He began to defend the right of a greater participation of individuals and citizens in the local policies of the United States.

He suggested the creation of small groups of individuals, so that everyone could have the opportunity to participate in these groups and express his opinion on various issues. (Hansel and William 1996, 6; Wolman 1996, 159-160) Jefferson was the first to introduce the idea of popular participation in local government, but James Madison is known as the second advocate of local democracy in the United States of America, as he advocated a system of local government with clearly separated responsibilities of legislative and executive power. (Hindess 1997, 91; Wolman 1996, 161) While in Europe, the advocate of local democracy was John Stuart Mill, who set out his ideas in “Considerations on Representative Governance” published in 1861, a paper that holds the basis of local democracy in Europe. (Stoker 1996a, 5) He stressed that local political institutions should be essential elements for a democratic government as they give us practical and educational advantages. According to him, local interests are also represented through local government, and as such a more efficient provision of services is guaranteed. (Goldsmith 1990, 17; Sanders 1997, 349).

Often the term “local democracy” is equated with that of “local government”, but these are not completely the same, as local democracy means mainly community governance, while local government provides the community with the necessary



institutions to achieve this goal. These institutions are the council as the legislative body and the executive bodies. Nowadays things have become more complicated than that, as local institutions have to share their position with new bodies, newly created, such as executive agencies, various networks of partnerships, etc., as a result of the growth and the spread of European Union policies. (Cochrane 1996, 200-201; Mlinar 1995, 146, 159).

A community is made up of various interrelated elements such as affiliation, place, roots, history, tradition, inclusion and self-regulation. (Benest, 1999) Decentralization on the other hand is seen as the most important condition for democracy in local government systems. Why? Because it encourages greater community access to local politics as well as accountability to public pressure. Nowadays the theory of local democracy has little to do with the geographical boundaries of local units and more with interaction with the rest of the world, as communities are no longer seen as separate entities but as part of a wider network. (Mlinar 1995, 149).

These last three decades have brought many changes in terms of administrative-territorial reforms in many Western European countries. These countries have reorganized administrative boundaries, functional divisions, or financial relations between different levels of government. These reforms have been permeated by the idea that small local units (dating back to World War II) were unable to provide the services needed efficiently. (Norton 1994, 37) Such reforms undertaken in Sweden, Belgium, Norway, Denmark or Germany, have begun with structural reorganization and then reorganization of functions and finances. The merging of local units makes it possible to pool the necessary administrative resources for the implementation of larger social programs, which cannot be carried out by small units. (Kjellberg 1988, 44-45).

The main reason for making an administrative-territorial reform remains the increase of the administrative capacity of the public sector and the limitation of its expenses, through the preservation of the features of each of its constituent parts. Another reason is the exclusion of the central government from functions that can be performed by the local government, meaning the increase of political responsibility by already determining what functions the central and local government will have. The local capacity of a unit to operate is based on financial sustainability. This because larger local units have an advantage in economic growth, compared to smaller local units with smaller population. (Walsh 1996, 75) The most important reason to make such a reform is the need to increase the operational capacity of local government units, which are highly dependent on central funding.

What is worth mentioning is that such reforms, which change the boundaries of local units, cannot be successfully if implemented in less than a decade, such

a conclusion comes from the study of successful reforms in Western European countries. The aim of a reform should be to create local communities with strong autonomy, capable of having the necessary capacities and means to encourage local development in all its aspects. The reform that it is required to be undertaken, must meet criteria such as, the existence of political will, without which a reform cannot be fulfilled. From the legislative point of view, there are constitutional changes that will determine the basic territorial division of a country, which will necessarily bring the need for political will, which will be translated into pro votes, during the voting in the halls of parliaments. After the change of the constitution, other laws on public administration, local government and its organization, or local finances should be changed.

Changes in the law should be made based on a complex analytical process and applied in all aspects that require changes. Then all the services provided to the public and the way they will be provided must be legally regulated. In order for a reform to achieve its intended objectives, each service provided to the public must find a specific regulation in law. Such regulation is the adaptation of the law on local government financing. This is done not only in the law on the State Budget, but also in other acts on which local budgets are drafted. In this regard, we must keep in mind that fiscal decentralization must go in direct proportion to the decentralization process of other public services. Local tax laws need to be adapted to reform and reflect changes. The process of harmonization with the legislation of the European Union must be considered during the modification process. The experience of the member states of the European Union in the implementation of the reform gives us four important steps that must be considered during the design and implementation of the reform.

First, the existence of a political consensus on the need for reform, the objectives as well as how the reform should be done. Secondly, there is a need for strong support from international institutions, especially those of the European Union that have similar issues at work. Their recommendations can be as important as the technical assistance itself. Third, technical discussions at the expert level as well as discussions with the political class and civil society on the definition of competencies or criteria for the division of the territory. Fourth, the implementation of the reform requires a strong education of local leaders on how to implement and operate, by making study visits to see closely the operation in other countries where such reforms have been successfully implemented.

Administrative-territorial reform becomes more important in Albania when problems such as fiscal efficiency and decentralization of public services come to the fore. The division that existed in about 370 local units did not meet the efficiency criteria, nor did it encourage an optimally regulated relationship between the local and central government subdivisions. Moreover, it was an already ongoing request



of the European Union to establish larger administrative units or development regions, in order to be responsible for managing pre-accession funds on the social and economic development of the candidate countries. The previous division of units, as per year 2000, in terms of regional development efficiency was not at its best, as it was based on the concept of symmetrical decentralization of functions and competencies, without distinguishing between the size of local government units or their capacities to perform these functions. (Decision 19/15 of the Constitutional Court of the Republic of Albania). This was also proved by the fact that in many cases regional development policies had failed over the years, as well as by the fact that inequality in regional development and imbalances between regional development had not been reduced or eliminated on these regions.

The reasons for these failures were on the one hand the lack of power, which means limited competencies and weak local institutions, and on the other hand the fact that a proper study had not been done on how to create and delimit the regions created in 2000. The division was made on the basis of those local bodies and institutions that existed, already adapting some designations, such as the transition from district to county, as a term widely used in the literature and practices of European countries. As a result, regions were created without such a common interest or profile and which did not help in their development. The reform development process should have included consultation on two very important elements. The decision on reform should be the result of a consensus reached between the political class, defining the need for reform and its main directions, but on the other hand should also be the result of extensive consultation with civil society and stakeholders affected directly from this reform. In addition, a preliminary study of all different documents, studies, expertise in the relevant field is needed, in order to find the most possible variables and the most appropriate alternatives for the Albanian reality.

II. The reforms in Albania

The Constitution of the Republic of Albania in article 108, point 2, determines:

“Administrative-territorial divisions of local government units are determined by law on the basis of common economic needs, interests and historical tradition.”

Not only due to the fact that it is defined in the Constitution, which is the basic law of a country, but also in practice, the historical, cultural and customary tradition passed from one generation to another, is a very important element and criterion, essential for a sustainable administrative division. The territory of our

country, with the first ethnographic provinces, is also a criterion that must be kept in mind for a territorial division. As a result, we cannot make arithmetic divisions, dividing population numbers and not taking into account the extent of geographical space, distance, history and different areas, their traditions on which civilizations have built over the years, ethnocultural, and in our concept even the development livestock and agriculture. More important, both the Constitution of our country and the main document on which is based and protected local government and autonomy, namely the European Charter of Local Autonomy, provide that for any change or territorial reform, it must be taken the opinion of the people that is directly influenced by this. Sami Frashëri, the main scholar and ideologue of the Renaissance, in his work “Albania what has been, what is and what will become” (Shtupi, Vasjari, Zenuni; 2013), foresaw the villages as basic organs of local government. At that time, over 90 percent of the population lived in villages. The place was divided into 15 communities which were divided into 3 or 4 *kazas*. The government was made up of 15 governors and 50 deputy governors.

Every small town would create a council which included people with the education and wealth needed to be part of the council, normally it included the most prominent names of the time who had received the proper education abroad and owned the property that was required. This division was because of the Turkish occupation and was transmitted to the Albanian reality, leaving not many opportunities for study regarding the criteria used or the reason for making this division. After the Declaration of Independence on November 28, 1912, the country inherited the administrative division of the Ottoman Empire into: *sanxhak*, *kaza* and *nahije*. (Shtupi I, Vasjari A, Zenuni Xh, 2013). As the prime minister, Ismail Qemali defended the idea that the country should be divided according to the Swiss model, into three cantons based in Shkodra, Durres and Vlora. But, after the arguments of his collaborators, on November 22, 1913, he signed the law called “The current Kanun of the civil administration of Albania”, which created a unitary state, divided into: prefectures, sub-prefectures and provinces.

According to the Organic Statute of Albania approved by the Six Great Powers in Vlora on April 10, 1914, also known as the first Constitution of Albania, although imposed, the country was divided into 7 sanjaks-prefectures which were: Shkodra, Elbasan, Dibra, Durres, Berat, Korça and Gjirokastra. These were divided into *kazà* (sub-prefectures) and *nahije* (municipalities). The government of Prince Vid survived only 6 months, March-September 1914, therefore the Statute remained merely a historical document. The Organic Law of November 26, 1921 defined the municipality as a body of local government, which was established in every town and village with more than 250 houses. They had a council that was elected every three years as well as their chairman. Municipalities were later established according to Article 13 of the Law on the Implementation of the Civil



Code of February 1928. The period 1928-1939, is known also as the creation of a local governing tradition, in addition to the efforts of the King Zog regime to establish and strengthen governing structures country, in accordance with the monarchical political system. In 1927, the territory of the country was divided into 10 prefectures, 39 sub-prefectures, 69 provinces with 2351 villages. While in 1934 it was divided into 10 prefectures, 30 sub-prefectures, 160 communes and 2351 villages. In 1940 there were 10 prefectures, 30 sub-prefectures, 23 municipalities, 136 communes and 2551 villages.

The administrative division of the country during the years 1946-1992 underwent changes in accordance with the stages of economic, social, demographic development of the one-party political system. Suffice it to mention that in 1990 the population had increased almost 3 times from that of 1945, while other socio-economic indicators were incomparable with those of the pre-liberation. After the adoption of the Constitution on March 14, 1946 and the law on popular councils on August 8, 1946, on August 22, 1946, the first post-liberation law on administrative-territorial division was adopted, according to which, the country was divided into 10 prefectures, 39 sub-prefectures, 116 municipalities and 2711 localities. Compared to 1939 there were 64 fewer municipalities and localities emerged as new units. But this division did not last long as with law nr. 500, dated 6.11.1947, the previous units that were prefectures, sub-prefectures and municipalities were replaced by: 47 districts, 22 cities, 573 localities and 2602 villages.

The sites consisted of several villages that today can be compared to municipalities. Other changes took place in the years 1953-1957 according to which 10 regions were created: Shkodra, Tirana, Durrës, Elbasan, Vlora, Berat, Korça, Gjirokastra, Dibra and Kukës. During these years, the division into 4 regions was tried, but with the decree of February 1958, the country was divided into: 26 districts, 39 cities, 203 localities and 2655 villages.

The administrative division of “unit” eventually disappeared as it was not successful. This division continued until 1966, but then with the decree no. 42227, dated February 14, 1967, the new administrative-territorial division was approved, which resulted the longest life of the communist system, as it continued until 1990. The changes made in this period affected only certain administrative units, in response to proposals from local government bodies in the districts. In this decree comes out for the first time the term of the “united village”, while the localities were significantly reduced. According to this law in 1968 the country was divided into 26 districts, 65 cities, 437 united villages, 178 localities, 2,641 villages. Subsequently, the number of cities, neighbourhoods of cities and united villages increased, and the localities were merged. The administrative divisions during the communist period were reflections of the demographic changes of the population, but also because of the policies of the centralized economy of that time. In these

divisions were set up local government bodies, with the relevant popular councils, whose activity, as well as that of state bodies, was permeated by the principle of centralism called democratic, but which in fact were dependent on the central government.

Thus, at the end of 1990, Albania was divided into 26 districts, 67 cities, 539 united villages and 2,848 villages. The city of Tirana consisted of 3 regions, with 63 neighbourhoods.

III. Administrative division after the 1990s

Law no. 7491 “On the main constitutional provisions” of 1991 was the first legal base of the administrative division. The latter was amended, and these changes were reflected in the law no. 7570 “On the organization and functioning of local government” of 1992, where in its first article was defined the administrative division- territory of the country in communes, municipalities and districts. By decision of the Council of Ministers in June 1992 the country was divided into 36 districts, 44 municipalities and 313 communes. In 2000, when we had an organic law on local government in Albania, the country was divided into 36 districts, 65 municipalities and 309 communes. The Constitution of the Republic of Albania adopted in 1998 sanctioned that local government units are communes or municipalities and regions as second levels of local government (Constitution of Albania, Article 108). In this way, the districts were merged to pave the way for the creation of counties composed of several basic units of local government with traditional, economic and social ties and common interests where regional policies are built and implemented and where they are harmonized with state policy.

The Law on Administrative-Territorial Division of Local Government Units of July 2000 (Law 8653/2000), made possible the amalgamation of 36 districts and created 12 regions. The basis for the functioning of local government was set out in the Constitution, which stated that in a democratic political system “local government in the Republic of Albania is established on the basis of the principle of decentralization of power and is exercised according to the principle of local autonomy.”

Adoption of various laws regarding local government legislation, such as the Ratification of the European Charter of Local Self-Government in 1999, the Decentralization Strategy in the same year, law no. 8652 “On the organization and functioning of local government” of 2000 or the law on segregation administrative-territorial 8653/2000, and other acts have already established a contemporary local governing tradition and practice which carry both positive and negative sides. One of the negative aspects lies in the fact that while the second level units were reduced



almost 3 times, the number of basic units, especially in the municipalities, remained the same, although over the last decade, population movements inside and outside the country have increased at a rapid pace and the number of inhabitants for some units has decreased significantly. This contradiction could be resolved through the amalgamation of small units and the creation of those with larger population. This practice was achieved with the new administrative-territorial reform that was implemented in 2015, within the new local elections.

IV. The need for new territorial reform

There are many reasons why a territorial reform in Albania was strongly sought. This reform would not only be effective for the Albanian reality but should resisted the time. Therefore, this reform should have been well studied and well aligned with the norms of the European Union, given that we aim at EU membership in the short term. One of the main reasons for the need of this reform was the high financial cost of maintaining a large number of staff in local units, which no longer generated income, and no longer provided services to citizens, due to the mass movement from the areas, from rural to urban and developed ones. Thus, in most local units the number of people per unit and administrative costs no longer justified their existence. The state budget was overcharged with salaries and social security expenditures of the administration of these units, which did not realize the main purpose of their function. This was due to the fact that the non-generation of income led to a lack of funds to invest. On the other hand, for a small country like Albania, with a small population, seen in the optics of European reforms, the presence of such large number of local units was unnecessary. In the European continent we find cases where there are countries with a population and area several times larger than Albania, but with a number of local units several times smaller.

The need for administrative-territorial reform and reorganization was determined by several factors (Report on the draft law “On administrative-territorial division of local government units in the Republic of Albania, 2014; 12)” which we will talk about below:

Demographic changes. Over the years the population in local government units has changed a lot. According to the 2011 census, 330 units have a population of less than 10 thousand inhabitants, and 232 units have a population of less than 5 thousand inhabitants. In municipalities the average population is 4300 inhabitants, where half of them have a population of less than 3100 inhabitants. More than half of the population, 53% live in municipalities, where of these the largest part of the urban population, i.e. those living in municipalities, are concentrated in

8 main and largest municipalities of the country such as Tirana, Durrës, Vlora, Elbasan, Shkodra, Kamza, Fieri and Korça. The average population in the municipality is 22,600 inhabitants, but in fact more than half of the municipalities have a population of less than 7,800 inhabitants. (Report on the draft law “On administrative-territorial division of local government units in the Republic of Albania, 2014; 12) Thus, since 2000, when the last administrative-territorial reform was undertaken, a series of changes have occurred not only demographically, but also social, cultural, and economic. The country has changed a lot in the last 15 years as a result of population movements inside and outside the country.

According to the data obtained from INSTAT (Report on the draft law “On the administrative-territorial division of local government units in the Republic of Albania, 2014; 12-13) in the 2011 census”, the population of Albania was 2,831,741 inhabitants, where the density is 98.5 inhabitants per square kilometre, and 53.7% of it live in urban areas. Consequently, it is understandable that such a change would lead to changes in local government units, where some units are overcrowded and have to provide more services to citizens, which is not possible to achieve with proper efficiency. On the other hand, there has been created local units which have a very small population as a result of migration, that makes their existence and the administrative costs unnecessary.

The second factor was the large fragmentation of local government units. Our country has an area of 28 thousand square kilometres, and a fragmentation of 373 local units (according to the penultimate reform made in 2000).

It is seen that such a division for a small area constitutes a large fragmentation. In 23 local units of Gjirokastra district, there are less than 2 thousand inhabitants. Such units have the same rights and obligations as those units that have a very large population, where is concentrated the population. As a result, the unit cost of providing services in these areas with a small population increases greatly and does not justify their existence.

In fact, the existence of these small units, i.e. with small population is in direct proportion to the democratization of government, where the people feel more represented, but on the other hand this fragmentation does not allow the development of reforms that lead to decentralization, as there is no capacities as well as financial means. A local unit with a very small population cannot generate income, as income depends on various per capita taxes as well as businesses. As a result, not having the necessary financial means, the local unit is forced to receive funds from the central government, thus becoming dependent on it, and consequently lacks decentralization.

Lack of efficiency in service delivery. (Report on the draft law “On administrative-territorial division of local government units in the Republic of Albania, 2014; 15). This is another important argument needing the administrative-territorial

reform, as it is directly related to the provision of public services and use of public funds by units.

From the data obtained from the Ministry of Finance (according to the above report), for 2012, 70% of the units have not made any investment, i.e. have not made investment expenditures. This means a lack of service delivery to citizens, as a lack of investment means fewer new roads and schools, fewer parks and city development.

From the collected data it is concluded that about 27% of the budget, local units use for capital expenditures and 37% for employees' salaries. But there are those local units that use about 80% of their budget for employee salaries. In this case we cannot talk about providing services to the citizen (since this is the main goal of local government units). The cleaning service is a basic service for the citizens, where the cleaning tax is the basis for maintaining and providing this service. At a time when there is such a high fragmentation of units, where the demographic distribution of the population is very unequal, then the collection of this tax also varies from one unit to another. As such, the service will not be able to be provided in the same way in every local unit, where in some we will have a better offer and in others a service not of the right quality or a service that is not offered at all. As a result, in units with small population, the cost of this service is higher. This shows that we have different costs for the same service in different local government units, although these are all located within the Albanian territory.

According to studies, it has been noticed that the cost of administrative expenses is inversely proportional to the number of the population. The administrative cost starts to decrease as the population grows. This is because the units with the highest population numbers have the opportunity to generate more revenue and as a result can provide more services.

Income inequality in the country. (Report on the draft law "On the administrative-territorial division of local government units in the Republic of Albania, 2014; 18) As we said above, the population has a great impact on local revenues.

Thus, those units with a larger population generate more revenue. Tirana and the main municipalities of the country generate most of the local revenue, over half of them. This shows that cities with larger population generate more revenue, a plus factor in the need to reform and merge smaller units into larger units.

The cleaning fee and the small business tax are two revenues that are mainly collected by local units and that mainly generate revenue. But there are those small and geographically remote local units that have not realized any income from these taxes, nor from the cleaning fee and no longer from the small business tax. This normally means that in these units no cleaning service is provided for the residents of that unit, so this unit has failed in its function of providing service to its citizens. On the other hand, we have local units, again those with a small population or that

are geographically located deep in the mountainous areas, where there is no small business at all, or the tax on it is not collected at all.

Another pro-reform reason is the fact that local units must fulfil their functions, provided by law. One such function is road infrastructure.

From the analysis of the road infrastructure inventory in the jurisdictional map before the reform it has been seen that the administrative jurisdiction of the local units is very limited to efficiently administer the road infrastructure, as many roads involve more than one local unit. On the other hand, the division of the investment into parts according to the units and their jurisdictional map has not been at all efficient. As a road connecting two or more local units has to be tendered as a fund by two or more units, a process which not only lasts but may be different in time from one unit to another. There are more documents as well as more procedures, which means double work for a procurement object that can be tendered alone without fragmentation. Also, the firms that provide such services, participating in tenders, are not the same from one unit to another. Thus, in large units, where the business is more developed, even firms that offer such a service or public work are more numerous, which enables competition in quality and cost. While in small and underdeveloped local units, the lack of such businesses leads to a lack of quality and as a result tenders are given to those companies that are, not guaranteeing full competition. So, even making investments requires less fragmentation, which turns out to be more productive and efficient in providing them. Even the service of providing drinking water or that of disposal and processing of urban waste is more efficient in smaller fragmentation for the reasons mentioned above.

The integration processes as well as the need to adapt with the EU governance, at several levels, has also been the reason for the reform.

This is because according to a document published by the Council of Europe, over 60% of decisions taken at the level of the European Union, have a direct impact on municipalities, provinces or regions. While 70-80% of public investments in Europe are made by regional and local authorities. These figures are clear indicators to show how much more and more local and regional government is gaining importance at the European level, both in terms of the economy and the lives of citizens.

Conclusions

In conclusion, the need for administrative-territorial reform has come as a result of major demographic changes in the country in local units and the high level of fragmentation that has hindered full decentralization, as there is a pronounced lack of human capacity and inefficiency in service delivery. The high fragmentation has

made the goal of democratization, the main goal, not achieved as a result of this. Decentralization has resulted in asymmetric, as it has led to the strengthening of some local units and the weakening of some others, making the provision of services to citizens not the same everywhere. There were local units that do not generate any revenue and consequently do not provide any services. The fragmentation of local units has led to fragmentation in the provision of key public services, such as road infrastructure, drinking water service, disposal and processing of urban waste, where in some units are provided to the required standard and in others are not provided at all, as no revenue is generated for their provision.

It is estimated that the reform was necessary to ensure efficiency in services, greater legitimacy and democratization of local government bodies. (Report on the draft law “On administrative-territorial division of local government units in the Republic of Albania, 2014; 23)

Thus, not only to adapt to reforms and coexistence with other EU countries, as a result of integration processes, but above all to translate the cutting of all those unnecessary administrative expenditures into further funding for investments, the Albanian government, assisted by foreign experts, undertook to carry out the administrative-territorial reform, a reform which had been discussed a long time ago, but which had never been implemented.

The reform also affected the country’s legislation, as it would bring about the change and adaptation of many legal or sub-legal acts, but what is more important, it could also bring about the change of the basic law of the country, the constitution. To prepare and amend a number of laws and bylaws, or if necessary, the Constitution, requires not only a very good expertise that takes its time, but on the other hand a certain majority translated into a number of votes in Parliament. Such a big and deep reform, which would bring drastic changes in the administrative and territorial organization of the country required time, which was not enough, as it was required that the new local elections of June 2015 ‘be held based on new organization. All this led, trying to rush to implement the reform within their deadlines, to become an accelerated reform, without a well-drafted legislation, which would be ready to enter into force once implemented the reform. As a result, the reform carried out quickly had neither the consensus of the opposition nor the broad consultancy among the people to the extent necessary for such a sensitive reform.

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