

## Kevin Govern

Emergent European and African nations have been recently described in terms of how "the new countries will not be the product of a single political change or conflict, as was the post-Soviet proliferation, nor will they be confined to a specific region. If anything, they are linked by a single, undeniable fact: history chews up borders with the same purposeless determination that geology does, as seaside villas slide off eroding coastal cliffs."

See <http://www.nytimes.com/interactive/2012/09/23/opinion/sunday/the-new-world.html>. In Lon Fuller's seminal 1964 work book, *The Morality of Law*, American legal scholar Lon Fuller identified eight elements of law which have been recognized as necessary for a society aspiring to institute the rule of law. I intend to show how emergent, nascent nations are challenging these time-tested notions of how:

- 1) Laws must exist and those laws should be obeyed by all, including government officials.
- 2) Laws must be published.
- 3) Laws must be prospective in nature so that the effect of the law may only take place after the law has been passed. For example, the court cannot convict a person of a crime committed before a criminal statute prohibiting the conduct was passed.
- 4) Laws should be written with reasonable clarity to avoid unfair enforcement.
- 5) Law must avoid contradictions.
- 6) Law must not command the impossible.
- 7) Law must stay constant through time to allow the formalization of rules; however, law also must allow for timely revision when the underlying social and political circumstances have changed.
- 8) Official action should be consistent with the declared rule.