

Legal Redefinition of the Community Status of Muslims during the Monarch Period



Religious Studies

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Abstract

The article brings to attention the relationship between the monarchic state and the two Muslim religious communities in Albania - the Muslim and the Bektashi Muslim communities. The state emerges as a guarantor of their national integrity and specificity, as well as communities become supporters of the state and unity of the people. Specifically, the content of the respective statutes drawn up in 1937 is explained by respecting the faith, sacraments, and canons, integrity and rights. Through the confrontation and approach between the corpus of the main articles of the two statutes and the Constitution of the Monarchy, the secularism of the Albanian state, the separation of religion from the state, emerges. It is further discussed about the structure, functions and forums of communities, the rights of the state to control and intervene in their activities, the moderate character of Albanian Muslims, the tendency toward modernization of religious practices, the establishment and strengthening of brotherhood, understanding and love among believers and other religious communities with one another as one of the rare features of religious coexistence in Albania.

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Further secularization of the state

State as the guarantor of their national integrity and specificity

The proclamation of the Monarchy on November 22, 1928 and of Ahmet Zogu as the King of Albanians, respectively the adoption of the new Constitution brought significant changes in the organization of the state, as well as a new legal relationship between him and religious communities. The state maintained the principle of secularism and separation from religion, even aimed at deepening this divide by prohibiting the creation of parties who had religious purposes and inspiration. He ruled out the possibility for religious leaders to engage in politics (Article 3) or to run at the top legislative, judicial and executive power forums (Article 12).

In order to realize the mediation between the state, in the concrete case of the monarchic regime and directly of King Zog on the one hand, and religious communities on the other, a special institution was established with the name of the Committee on Religious Affairs. This was also done to guarantee their rights, including their obligations to the founding law of the state. Thanks to this committee the government through the Ministry of Justice realized its ties and legal relations between state and religious communities, as well as addressing complex issues of faith, those of the practice of religion with its specifics in Albania as a place where there were five religious communities: Sunni Muslims, Bektashi, Orthodox, Catholic and Protestant.

The religious activity organized by the forums and structures of the five main religious communities in Albania was foreseen and derived from the Monarchy Constitution itself. It knew the freedom of religious conscience (Article 1), just as well Articles 5 and 203 gave all the rights to practice religion by the people of the country in the faith they exercised.

In a series of articles, the constitution recognized the King's right to exercise control over the high forums of religious communities as well as to senior clerics who were appointed to lead the governing structures of these religious communities, which greatly increased his power and authority in relation to them. Although the statutes of religious communities had to be drafted by them themselves, the King and his government had the exclusive right of approval. It was the right of the King and his government to give them the final legal form. Religious communities could not and should not carry out activities that went to the detriment of the country and the people, to the detriment of the King and the Monarchy. In this way, indirectly, they were oriented towards a patriotic attitude and inspiration, without prejudice to the high and inalienable interests of the nation for the sake of faith. Faith turned into private affairs, in a closed spiritual structure, which should not be allowed to create direct political impacts with believers and consequently with certain social sections of the population. Love for the country and its loyalty to it reappeared as a feature of the relationship between religious communities and the Albanian state, excluding their former mixing with one another as had happened during the rule of the Ottoman Empire.

In Article 7 of the Statute of the State this national character and this Albanian patriotism of the religious communities appears in the obligation that the clerics were already Albanian citizenship and to keep their prayers, masses and liturgy in Albanian language. This disrupted the religious communities from the dependence, pressure and political influence of other countries. Once they were anyhow dependent on inter-institutional relations with political leadership domes outside Albania and acted as an integral part of religious structures that did not have their center in the Albanian national space. Always so in the course of secularism pursued by the new state this phenomenon of "Albanianization", already now appeared as a paradigm of a modern European state, that made the differentiation between religious affairs and legal affairs. This was reflected in particular on the issues of justice and the justice system, not allowing any prelate and no other person belonging to religious structures to exercise the duties of a judge. On the other hand, this did not allow any religious institution to undertake the functions of the judiciary. Such a conception marked a profound reform of the state-religion report, which directed the country to the typologies and models of Western European states. The right to practice religion was already included in the human rights as well as in the legal code of the Civil Code (in terms of the freedom of conscience) and in the legal remarks of the Penal Code (as regards the violation of state laws that governed institutional relations with religious communities).

High-ranking religious leaders were crowned as such only after their consent and decree by the King. They were obliged to swear before him and pledging for their loyalty to him. In the event of a disagreement on the part of the King, senior forums were forced to choose other candidates and submit them again for approval and decree. In the statute of the Muslim community, for example, in "Different Provisions", it is emphasized that any article and provision can not be in contradiction with the laws of the state. Community relations with the royal government are realized through the Ministry of Justice (Article 66). Any change in statute is valid only after consent by the government (Article 67). Offenders are prosecuted under the Penal Code (Article 68). In a general view not only morally, but also in the form of an obligation, it should be noted

that every Friday in the different shrines in the Albanian language the “hytbet”, prayers for the state, for the king, for the nation and the army (Article 69).³ The King had the power to dismiss senior clerics of communities, in cases provided for by law, when they a) harmed the interests of the state, b) the homeland, c) the king, d) the nation and e) when they did high treason. The administrative financial huts and the economic activity of the religious communities were controlled by the government, which witnessed in another look, the secular character of the state and its obligation to exercise control over them. The state therefore treated religious communities both as legal persons and civilians, who were subject to the constitution and the laws in force.⁴

The Statute of the Albanian Muslim Community

The Third Community Congress of Muslims reviewed and approved the statute of this community, signed by its chairman, Vehbi Dibra.⁵ The final version was passed for approval to the government on August 8, 1929, and King Zog I approved the statute of the Muslim community by withdrawing the proposal of the Council of Ministers. The Statute contained ten chapters as well as 9 different provisions (61-69) and 3 transitional provisions (70-73). After the foreword, chapter I (or chapter D) in its four articles defines the legal form of the Muslim Community and its organs. It is foreseen as a union of Albanian Muslims to every sect, thus providing a broad and comprehensive spectrum of representation, without fragmenting it into multiple and independent fraternities. The General Council, the Presidency of the Community, the Permanent Council, the General Directorate of the Financial and Banking Administration, and the Prime-Myfti, the Mufties, the Submissions and the District Councils are the central organs of the community. As a legal person, on the other hand, he enjoys all the rights of a moral person (Article 4). The language with which all religious services, rituals and activities are performed in Albanian. The second chapter is devoted to the General Council as the highest religious authority, comprising: the community chairman, the four high Myftiof of four areas and one representative for each prefecture, which is represented for five consecutive years. Article 6 describes the duties of the General Council.⁶

³ “Official Gazette”, no. 53, August 24, 1939, 6; Ref: <http://licodu.cois.it>, - Various provisions.

⁴ In Chapter V of the Statute of the Muslim Community, Article 20 states: “The Director General shall regulate and represent the Community financial and property management, shall be responsible for administrative and financial matters with governmental authorities on behalf of the Community. It is also subject to government inspections.” “Official Gazette”, no. 53, August 24, 1939, 6; Ref: <http://licodu.cois.it>

⁵ The 3rd Congress of the Albanian Community is written in the preface to the statute of the Albanian Muslim community, - unanimously elected by the Muslim element, based on the freedom provided by the Statute and the laws of the State for ensuring the welfare of religious work and economic interests of the Community concerned decides and declares to this Statute: (chapters and provisions continue) “Official Gazette”, no. 53, August 24, 1939, 6; Ref: <http://licodu.cois.it>

⁶ “Art. 6: The duties of the General Council are as follows: Review and approve the budget (estimation and consumption) as well as regulations, control the actions of all community offices, the General Director of the Blinds, and elect the Chairman of the Community, the General Director of the Council and the Prime Ministers; decides on all the wealth, cares for the Fetaro-National Education, the culture and the fulfillment of the duties of the functionaries. Art. 7: The General Council is convened annually on 1 May at the ordinary session and is chaired by the Chair of the Community. It continues for at least 20 days. If necessary, he may be summoned by the President or at the request of at least two members of the Council at an extraordinary session, discussing only the issues that caused that meeting.”

The third chapter is devoted to the Chairman of the Community, his powers and duties, his education and theological formation (he must have received "ixhez"-es and completed the Nuv-vab school), also he should be not sentenced by the court.

The Mayor represented religiously the entire mass of Muslims, he responded to the progress of the affairs, led the offices and various administrative chains. In case of absence for various reasons he was replaced by the center's chieftain, while the council convened at the top of 10 days and elected the new chairman. The Mayor swore in front of the King according to a given formula.⁷

This chapter describes and defines the institutional structure of the Permanent Council, which is established and in function within the community leadership. It is also conceived both as a consultative link and as a decision-making link. In addition to the Chairman of the community, the General Director of the Financial Administration and the General Staff, the General Director of the General Presidency and the Center's chief of the deputy, also participate in the composition of the Permanent Council. This council meets at least once a week and makes decisions on community operational issues; appoints, ceases, or transfers the various clergy who have posts in the religious hierarchy. He has the duty to recommend religious literature, publishes his own magazine with religious, social literary as well as "hyrbe", drafts necessary regulations for community well-being, opens courses for the preparation of clergy, among them imams and others that were lower for hierarchical functions and order. In Chapter Five, Article 22, are described the functions, duties and powers of the Director General.⁸ As in Chapter VI, Article 30, the tasks of chiefs, mincers and subordinates are defined.⁹ The appointments of Imams, Hatibahs, Vaisans, Myezines in different mosques were made by the Muslim community leader taking legal form, as they were previously selected and proposed by the respective ranges. These clerics had the task and function of teaching, excluding other administrative or commercial functions. In this chapter it was further about the structure of community councils, from 4 to 6 members, led by the Myfti-es.

⁷ "I swear by the name of God and give me the Albanian covenant that I will always be loyal to the King of Albanians, the Homeland and the Statute of the State, and I owe to swear in this way all the officials who depend on me."

After completing this formality, the President will swear to the General Council as follows: "I swear by God that I will keep faithful to religious orders and fully respect the Community Statute and Regulations with a pure national conscience."

⁸ "The General Director is tasked with preparing the general budget (budget and consumption), ensuring the revenue of the Community and the wage earners, with credits provided under the budget approved by the General Council, taking care of the improvement of the wages and all Community assets, in accordance with the decisions of the General and Standing Council and the orders of the Community Presidency in conformity with this Statute and with the special regulations. Art. 23. The Director-General drops himself from office if he is punished by abuse of office; the rest or suspension shall be made by a decision of the General Council by two-thirds of the votes of its members."

⁹ "The duties of the High-Myftis, the Myfts and the Submissions are the following: By executing the orders and the Decrees issued by the President and the General Council, through the preaching of the Brotherhood among the Muslims, contributing to the strengthening of the national fraternity, to revive national sentiments and to advise the Muslims to conform to modern civilization and human development explaining that religion commands the adoption of civic progress, with the spread of religious magazines and books to be published by the central community administration, taking care of the good administration and welfare of the community's assets, by surveying its dependents, by register the relevant swaps, which are certified by the mortgage offices, carry out their duties on the financial and community activities of the Community and in cases where there are no special employees then by correspondence with the General Director, with due regard for the collection of income of the Community as far as the Region is concerned its own."

There the institutional structure of the illnesses is also defined.¹⁰ The well-functioning rules of the Chiefs, Mufti-es and Submissions, their penalties, exceptions, vacations, elections, oaths and especially disciplinary measures are further detailed.¹¹

Chapter Seven speaks of different offices and employees of the Muslim community by defining the functions, duties, dependence on hierarchical scale, responsibilities. Articles 40-52 create the content of the eighth chapter, which deals with the gaps and their good administration and exploitation, the benefits, benefits and distribution of income, the service to the sick, the care and assistance to the poor and the needy. The high-Mufti-s and the Mufti-s responded to the good administration of the swarms (temples) and the collection of the proceeds that came from them. Every 1 May budget was drawn up. It was approved by the General Council on 1 June and closed on 31 May of the following year. The government had the task of controlling the annual balance of the community by making appropriate remarks and, in certain cases, by taking punitive measures.

Other additional community income came from tax payable to each family believer, in three categories: one, three, and five francs. In cases of nonpayment, they were excluded from religious ceremonies, a decision that was taken by the imperial Myfti, Myftisand deputy-Muftis. Other revenues also were included in the community budget from subsidies of the Albanian state, while from other states they were not allowed and were not accepted.

Ninth chapter is devoted to the shrine (mosques and masjids) with their respective rules, while the tenth chapter is dedicated to the General Madrasah. Madrasahs of districts are suppressed. Girls, myderizas and other community-recognized officials could give religious instruction to anyone they wanted, but with the consent of the superior of the respective district. In Madraswere given lessons for the lower, middle and high school cycle. Articles 58, 59 refer to the Director of General Madrasah and its professors.¹² Under the various provisions of Article 61, the Permanent Council organizes the religious administration of the Muslim community. No property of this community can be altered and sold without the General Council's decision, which also authorizes

¹⁰ "High-Myftis": Art.24. The Muslim community in Shkodra, Tirana, Korça and Gjinokastra centers will have one of the High-Myftis. The Shkodra area includes the Prefectures of Kosovo and Shkodra. The Tirana area comprises the Prefectures of Debar, Tirana, Durrës, and Berat. The area of Korca includes the Prefectures, Elbasan, Korça. The Gjirokastra area comprises the Prefectures of Vlora and Gjirokastra. Prime Ministers are elected by the General Council. These are decreed by the King and swear by the Chairman of the Community. Myfts, Negatives and District Councils: Art. 25. The Muslim community except the centers of the area, in the other Prefecture centers will have a Myfti, while in the Sub-Prefectures centers, according to the budget and the importance of the population, there will be one sub-office. Art. 26. Submitters supported by the Head of the Area or Presidency proposal, after receiving the opinion of the Area Chief, are elected by the Permanent Council and are decreed by the Chair of the community. They swear in this way before the chief of staff from whom they depend. "I swear by God that I will be faithful to the King, the Statute, the Fatherland, and that I will perform my duty with a clear national conscience, in full respect of the Statute and community regulations." Art. 27. In the centers of the area, Mufti's office is carried out by the chief of the area.

¹¹ The discharge of the duties of the President of the Community, the Director General of the Financial Administration and sacred properties, the Director of the General Madrasah-es shall be made by a decision of the General Council.

¹² Art. 58. The Director of General Medrese is elected by the General Council of the Community and decreed by the King, and when convened, he is elected by the Permanent Council. Myderizat and professors on the proposal of the Director are appointed by the Permanent Council. Both the Director and the Myderrizs and professors are decreed by the Chair of the Community. The staff is obliged to draft the subject of the Community Magazine. Art. 59. The Director of Medrese and her professors, in addition to the conditions set forth in Community law, must have run out of one of the university's branches and have had enough time in the service and have religious knowledge. The above mentioned numbers in the absence of staff equipped with these qualities may not be required for a period of three years from the date of entry into force of this Statute. But in this case they must have a proven ability.

their lease for more than five years. Specific in the various provisions is the access of the Albanian state to the control that it can exercise in the finances of the Muslim community. These provisions were also included the obligation that community had about governing and its administrative ranks against the inspection of state organs, as well as the implicit criminal responsibility of violators against the constitution and laws of the state.

Statute of the Bektashi community

Statute of the Bektashi community was, in fact, a copy-paste of the Muslim community's statute in its basic principles, in its spirit, as well as in the main principles of its functioning as a legal act. He also had the same optics in the conception and construction of the clerical hierarchy, on the duties, responsibilities and rights of leading forums, those of senior and lower clerics. Their similarity is also manifested on the good administration of property, the distribution of benefits, aid to the poor, to the sick, the charity, the education of young clergy, publications, books, prayers, etc. The statute of the Bektashi community was considered and approved at the Bektashi Congress, held on September 26, 1929, at the Turan holy mosque (Teqe). The fifty-five delegates who participated in the proceedings of this congress gave the statute specific form in accordance with the interests, peculiarities and the essence of Bektashism. As was known, Bektashism is different from the Sunni in the way of practicing religious rituals, the pattern of their shrines, the organizational structure, the way of organizing the hierarchy (Ashiku, Muhibi, Dervishi, Myjar, Halifi, Dad, Grandfather, High-Grandfather). It is also a feature in the form of prayers as well as other items that mark the original aspects of this sect and Muslim brotherhood in Albania.

The Bektashis created six centers: 1. Kruja, based in Fushe Kruja tekke (masjid); 2. Elbasan, headquartered in Krasta's tekke; 3. Korça, headquartered in Melçan's tekke; 4. Gjirokastra, based in Baba Asim's tekke in Gjirokastra; 5. Prishtë, representing Berat and a part of Permet; 6. Vlora, headquartered in Frashër's tekke.

In 1928, the Bektashi community had sixty-five tekkes scattered throughout the country and about 10-12 Bektashitekkes in Kosovo.

The moderator spirit of Albanian Muslims

The Muslim religion in Albania has never been blind, with a fundamentalist nature, much less with terrorist ideas. Albanian Muslims have always been reconciliatory, receptive and fraternal with other communities, transforming into a factor of spiritual, social and national cohesion among the Albanians. As well as other religious communities in the Albanian lands, the Muslim community and the Bektashi community have adopted the norms, canons and good Albanian customs, the spirit of the nation, and therefore always offered a moderate optics and behavior when religion and religious affiliation do not bring disunity and disunity, in contrary they bring peace, understanding, harmony, coexistence and brotherhood with others.

It is very interesting to note that in the content of the statute of the Muslim community, in its various articles and clerical duties it is often spoken of the need for modernization of this

community and the mass of believers, for embracing the customs and behaviors of the time to come from the advanced European countries. His legal content detracts the Albanian Muslim brotherhood from the obsolete and archaic heritage that had been created during the period from the former situation of this community under the Shariah and the Ottoman Empire. The statute represented a remarkable change especially in the attitude towards women, their position and rights, by orienting believers towards new and more civic relations between husband and wife. This was stated in the non-release of heavy clothing covering the face of the woman and placed her in a humiliating position.

Albanian Bektashians had a range of differences with the Sunni Muslim community. As a Muslim community following the religious practices of the Sufi sect, in a generally it has a liberal attitude and does not apply solid and rigid way. Bektashi believers pray twice a day, not five times as Sunnis. Prayers do not necessarily make their faces towards Mecca. Do not sit on their knees and do not put their heads on the ground. Also alcoholic drinks do not stop, women participate in religious rituals in teqe, unlike sunsets who do not allow men and women together during prayer. The Bektashis do not have a month of fasting and does not necessarily hold Ramadan.¹³

The Muslim community warmly welcomed the decision of King Zog I in March 1937 to remove the headscarf and facial covers for women and girls (arkapiat), while the gesture of the king's sisters and the women of the royal court for the removal of religious vests was received with sympathy from all citizens and believers who aspired to the social and cultural progress of the Albanian people. In support of this monarchic government's decision, the Muslim community made an interpretation of the Qur'an, emphasizing and clarifying that the Holy Book of Muslims did not force the wearing of a headscarf in the face of a woman nor walked barefoot, and therefore this custom could be considered excessive, improper and humiliating for the dignity of women.¹⁴

The "Albanian Woman" Association carried out a series of activities for the emancipation of a Muslim woman denouncing it as an old habit, imposed and anachronistic wearing which had strong and symbolic religious content, especially when those offended the female personality by covering her face and body. Such habits, though in respect of their religion, did not allow Albanian women and girls to develop emancipated behavior and to wear beautiful and contemporary dresses. On the other hand, girls had to be guaranteed the right to choose their spouse so they would not marry before the age of 16, not to obey the decisions of their parents when they were against their feelings and consent.¹⁵

¹³ Central Archive. Fund no. 882, 1923, fil.4, p. 8.

¹⁴ Look for further: Morozzodella Rocca, R., Nation and religion in Albania. Bologna, Il Mulino, 1999, pp. 119-127.

¹⁵ Shehu, N. Woman and marriage in Albania, Historical Profile, Bari, South Puglia Graphic, 1988, pp. 19-25.

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