

## Institutional Arrangements for Religion in Kosovo

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### Abstract

Given the experience of war, the major challenge for post-war Kosovo has been to create an environment where different religious and ethnic groups can re-negotiate their differences and live in harmony with each other. Religion has been central to public discussion and contestation over the past decade. To minimize the role of religion and so fend off potential incidents, the international community put in place a strong secular system. This secular model has not been satisfied with the separation of state and religion, however, seeking rather a separation of society from religion to the point of marginalizing the latter and relegating it to purely private matters.

**Key words:** Kosovo, religion, secularism, Islam

### Introduction

The Muslim presence in Kosovo dates from the Ottoman period, when Islam became very widespread among Albanians. Since then, the population of Kosovo has been predominately Muslim. While most Kosovo Muslims are ethnically Albanian, many also come from other ethnic groups, including Turks and Bosniaks. The overwhelming majority is Sunni, but there are also small Sufi orders active in Kosovo, like the Bektashi, the Saadi, the Kaderi, the Rufai, and the Malami. *Bashkësia Islame e Kosovës* (the Islamic Community of Kosovo) is the official representative institution of the Muslim community. Before 1993, the Islamic Community was part of the Islamic Religious Community of Yugoslavia, a cen-

tralized body with headquarters in Sarajevo.

According to the most recent census in Kosovo, in 2011, an overwhelming majority or 95% of an overall population of nearly 1.8 million identify as Muslims. A further 2.2% identify as Catholic and some 1.5% as Orthodox. This census was boycotted by most of the Serb population of Kosovo, most of whom belong to the Orthodox Church. Consequently, the exact number of Orthodox is unknown. Certain other communities are also present, including Protestants, Jews, and those who did not declare any religious affiliation.

Despite this Muslim majority, Kosovar society is considered largely secular. Indeed, secularization in Kosovo and the Balkans more generally arguably goes back to the days of socialist Yugoslavia when religion and religious actors were de-emphasised. In the 1960s, the authorities implemented important integration and modernization policies in certain Muslim-populated areas of Yugoslavia. This process resulted in the creation of a largely atheist political and intellectual elite that defined itself through reference to socialism, progress and Yugoslavism, rather than religion. It also led to extreme marginalization of the Muslim clergy. Islam was thus relegated to the private sphere: worship and religious practices, annual religious feasts, and traditional ceremonies for weddings and funerals. In some countries, like Albania, the Communist regime supported intellectuals from among the academic communities of historians, linguists, ethnographers, writers, artists and students of Marxist ideology, and encouraged them to transmit Communist ideas into the religious sphere.<sup>1</sup>

Overall, Communist regimes had an immense impact on the place of religion in society. According to Waardenburg, religion was confined to the private sphere and the public and political expression of it strictly prohibited.

...religion was decried as intellectually backward and politically reactionary. Religious organizations could operate strictly for religious purposes only. No religious organizations were allowed to engage in education, health service or social work. As a rule, religious property was confiscated or nationalized. All religious leaders were strictly controlled and could be questioned and imprisoned on the slightest suspicion. People known to be religious were excluded from careers in the public sphere. Spiritual quests and expressions were judged to be damaging to the society. On the other hand, members of the party had to declare themselves convicted atheists. Given these restrictions, as a result, younger generations of Muslims could not learn to know their religion well. In so far as they considered themselves as Muslims, they did so primarily in a social sense. For the state they were only secular citizens of equal status.<sup>2</sup>

Communism led to the creation of an atheist political elite, many of whom would go on to hold key positions in politics and academia in post-Communist

1 Arolda Elbasani and Olivier Roy, "Islam in the post-Communist Balkans: alternative pathways to God", *Southeast European and Black Sea Studies*, 15:4 (2016), pp. 457-71.

2 Jacques Waardenburg, "Politics and Religion in the Balkans", *Islamic Studies*, 16:2/3 (1997), pp. 383-402.

times as well, continuing to shape relations between the state and religion. It was, however, possible for post-Communist governments to open up to some degree and enter into contractual relations with the religious authorities. In the Muslim-majority countries of the Balkans, the phenomenon of government-sponsored 'official' Islam was born. This organizational concept refers to the creation of centralized state-approved religious hierarchies that have served as powerful interlocutors in the spreading of politically-conceived and national renderings of Islam<sup>3</sup>. Headed by a Chief Mufti, governed by formal statutes, and supported and monitored by the state, such central hierarchies are formally acknowledged as the sole authority empowered to issue binding decisions on administrative or spiritual issues of pertinence to the Muslim community. They enjoy preferential relations with the state, as the only associations in a position to negotiate bilateral agreements with the state, engage in dialogue with government authorities, be represented in government institutions, enjoy unfettered access to public media, and benefit from government funding, roles which mark them out as the governing 'authority' in charge of the community of Muslim believers.<sup>4</sup>

The official hierarchy, in return, was expected to facilitate state oversight over the community of believers and to keep it free of alternative foreign influences. Neither the state apparatus nor the religious hierarchies could halt the wave of foreign influences that washed over post-war Bosnia and Kosovo and post-Communist Albania, however. These countries became a competitive marketplace, where foreign ideas and actors, including foreign missionaries, students, humanitarian organizations and online media, competed with the established institutions and national ideologies for market share.<sup>5</sup> Cash-rich Arab organizations and a myriad of other Middle Eastern and Turkish organizations targeted Muslim communities in the Balkans, not just to win post-atheist souls, but also to gain a foothold in Europe. They provided financial resources for the recovery of Islam: funds for the rebuilding of infrastructure, scholarships for students abroad, foreign literature, local translations, religious missionaries, education networks and abundant humanitarian assistance. The dilemmas these foreign Islamic movements and their interpretations introduced pushed local Muslims to search for ideas that suited their societies better and so to take ownership of their own local 'ways' of pursuing faith.<sup>6</sup>

Both because of the foreign threat and the aspiration to join the European

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3 Kerem Oktem, "Between emigration, de-islamization and the nation-state: Muslim communities in the Balkans today", *Southeast European and Black Sea Studies*, 11: 2 (2011), pp. 155-71.

4 Arolda Elbasani, "Islam and democracy at the fringes of Europe: The role of useful historical legacies", *Politics and Religion*, 1:24 (2016).

5 Harun Karčić, "Globalisation and Islam in Bosnia: Foreign influences and their effects", *Totalitarian Movements and Political Religions*, 11:2 (2010), pp. 151-66.

6 Enes Karić, "Is 'Euro-Islam' a myth, challenge or a real opportunity for Muslims and Europe?", *Journal of Muslim Minority Affairs*, 23:2 (2012), pp. 435-42.

Union, relations between the state and the religious community intensified, with a shared focus on a common agenda. The promise of EU membership for the Muslim-majority countries of the Western Balkans has brought them into closer contact with the EU and the Europe-wide debates on what it is to be a good Muslim in contemporary Europe. While sceptics have argued that Muslim identity may be an obstacle from the EU perspective, political and religious figures started connecting with European discourses on 'good' vs. 'bad' Islam, emphasizing terms like 'European Islam' or 'Traditional Islam'.

'Regulating' religion in Kosovo has proved a difficult task. On the one hand, the international community has been deeply concerned with establishing a constitutional basis for a new Kosovar identity, without national or religious flavour. On the other hand, the 'return' of religion to the public sphere has created a major gap between the positions of the political classes and of believers in the major debates that have captivated the interest of the public. This paper aims to show how that has happened.

## Dealing with a post-secular dilemma

The Constitution of the Republic of Kosovo was ratified on 9 April, 2008, two months after Kosovo's declaration of independence, and stipulates that "the Republic of Kosovo is a secular state and is neutral in matters of religious beliefs."<sup>7</sup> In its guarantee of core fundamental rights, the Constitution declares that "Freedom of belief, conscience and religion includes the right to accept and manifest religion, the right to express personal beliefs and the right to accept or refuse membership in a religious community or group."<sup>8</sup> The Constitution also gives religious groups the freedom to regulate independently their internal organization, religious activities and religious ceremonies. Religious denominations also have the right to establish religious schools and charitable institutions.

The Constitution is based on Marti Ahtisaari's *Comprehensive Proposal for the Kosovo Status Settlement*, submitted to the UN Security Council in 2007, which maintains that "the Constitution of Kosovo shall affirm that Kosovo has no official religion and shall be neutral on questions of religious belief"<sup>9</sup>. The neutrality of the state with regard to religion is expressed through a vague law on freedom of religion. To date, the only law regulating religion in Kosovo is the 2006 *Law on Freedom of Religion in Kosovo*. The law recognizes five religious communities in Kosovo, namely the Islamic Community, the Serbian Orthodox Church, the Roman Catholic

7 *The Constitution of the Republic of Kosovo*, Article 8.

8 *Ibid.*, Article 38.

9 Marti Ahtisaari, *Report of the Special Envoy of the Secretary General on Kosovo's Future Status*, Article 1.4, (United Nations: Security Council, 2007).

Church, the Jewish Religious Community and the Evangelical Church.

The religious communities, and especially the Islamic Community, as the largest of them, have made continuous calls on the government to revise the law. According to an analysis published by the Institute for Religion and Public Policy, the law fails to address a critical aspect of freedom of religion, namely, the right of the religious communities to assume legal form and the status of legal entity. Accordingly, the law's impact cannot be truly assessed until the issues of registration and of status as a legal entity are clarified in legislation and regulation. "Without entity status, religious communities can only function on the most basic level," the report says.<sup>10</sup> It also warns that the religious communities face discriminatory legal obstacles in acquiring or renting places of worship, financially supporting clergy and other religious personnel, entering into contracts necessary to conduct religious activities, and protecting their rights legally.

There are studies that argue that the secular model in Kosovo, as framed by the international community and implemented by the local political elites, aims beyond the separation of state and religion at the separation of society and religion to the point of relegating the latter to the purely private sphere. This may be understood in terms of the distinction between political secularism and social secularism. According to Gola and Selaci, political secularism, in the sense of the separation or independence of the state from religious authority, is a political norm that has been accepted and, one might add, never contested by the Kosovan public. Social secularism, however, is related to values, practices, social habits and everyday life and poses a problem in Kosovo. "Rather than a principle of the state's equidistance from the different worldviews competing in the public space, secularism in Kosovo is used as an identity tool or an instrument of identity politics aiming at distancing its society from religion as a way to affirm its 'western orientation' and secular tradition."<sup>11</sup>

The Kosovo government has repeatedly emphasized the secular as a major feature of the new Kosovan identity, stating that "The state of Kosovo has been built on three principles, which are also its three pillars: democracy, multi-ethnicity and secularism".<sup>12</sup> Members of academia are also keen to defend the secular nature of the state and can respond in harsh tones to any public manifestation of religion, as demonstrated below.

Overall, the public debate on religious issues has been conducted by three categories of actors: the political elites, who have an eye to the international community and are keen to demonstrate that Kosovo is a secular state with a Euro-

10 Institute on Religion and Public Policy, *Analysis on the Law on Freedom of Religion in Kosovo*, 2006.

11 Ardian Gola and Gezim Selaci, "Socio-political and religious dynamics in Kosovo from the Post-Secularist Perspective", *Croatian Political Science Review*, 54:4 (2017), pp. 85-108.

12 Jeton Mehmeti, "Faith and Politics in Kosovo: The Status of Religious Communities in a Secular Country", *The Revival of Islam in the Balkans: From Identity to Religiosity*, Olivier Roy and Arolda Elbasani (eds.), (UK: Palgrave Macmillan, 2016), pp. 62-80.

pean-style constitutional framework; the media, intellectuals and NGOs, who are divided between secular and more religion-friendly views; and, the religious communities, which have their own interest in the issue.

## Public discourse over religious issues

Less than three days after Muslims in Kosovo celebrated “Eid al-Fitr” in 2016, a member of the Kosovo Academy of Sciences and Arts published a “Letter to Muslims of Facebook”. The author, Mehmet Kraja, who refers to himself as secular, was expressing dissatisfaction with the public display of Islam in Kosovo, especially during the month of Ramadan. He addressed his letter to all “the varieties of Muslim” in Kosovo, “traditional Muslims”, “moderate or not”, “fundamentalists or not”, “Wahabi or not”, “true believers or the manipulated”, asking them a fundamental question: “What will you do with Kosovo; will you take it East or West?”<sup>13</sup> The letter triggered a harsh reaction on social media.

Debate over the Muslim identity of the country has been under the scrutiny of the international media too,<sup>14</sup> especially in recent years, as individual Kosovars have joined military groups in Syria and Iraq. Some studies estimate that as many as 300 may have participated in the conflict there between 2012 and 2016.<sup>15</sup> In August 2014, the Kosovo authorities launched a major operation against suspected domestic militants believed to have fought in Syria and Iraq, arresting at least 40 people. A few weeks later, another 15 were arrested, this time including nine<sup>16</sup> imams and six<sup>17</sup> other influential Muslim leaders. In early 2016, the Kosovo Parliament passed *Law 05/L-002*, prohibiting participation in armed conflicts outside the state. The law was designed to allow the prosecution of any individuals who participate in such conflicts, those who publicly or secretly encourage them to join military groups, and those who finance their travel. Under the law, any-

13 Mehmet Kraja, “Leter myslimaneve te Facebook-ut” (Letter to Muslims of Facebook), 2016, <http://lajmi.net/mehmet-kraja-leter-myslmaneve-te-facebook-ut-kosova-kurre-shtet-islamik/>, last accessed: 12.02.2018.

14 Carlotta Gall, “How the Saudis turned Kosovo into fertile ground for ISIS”, [https://www.nytimes.com/2016/05/22/world/europe/how-the-saudis-turned-kosovo-into-fertile-ground-for-isis.html?\\_r=0](https://www.nytimes.com/2016/05/22/world/europe/how-the-saudis-turned-kosovo-into-fertile-ground-for-isis.html?_r=0), accessed 12.02.2018.

15 Kosovar Center for Security Studies, “Women in Violent Extremism: Lessons Learned from Kosovo”, (Prishtine, 2017), <http://www.qkss.org/en/Reports/Women-in-Violent-Extremism-Lessons-learned-from-Kosovo-841>, last accessed 14.2.2018.

16 Nektar Zogjani, “Kosovo President Hails Round-up of Suspected Militants”, *BIRN: Prishtine, 2014*, <http://www.balkaninsight.com/en/article/kosovo-police-arrests-suspected-terrorists>, last accessed 14.02.2018.

17 Fatos Bytyqi, “Kosovo imams arrested in push to stop fighters going to Syria, Iraq.” (*Reuters*, 2014), <http://www.reuters.com/article/2014/09/17/us-kosovo-islamist-arrests-idUSKBN0HC1B420140917>, last accessed 14.02.2018.

one who organises, recruits, leads or trains people with the aim of joining armed conflict outside Kosovo may be sentenced to imprisonment of between five and fifteen years.<sup>18</sup> The law also prescribes imprisonment of six months to five years for any public call to join such conflicts, whether on social networks or through other media.

Overall, “the fight against terrorism” has become a top priority for government institutions. According to the Government, Kosovo leads the fight against radicalisation, religious extremist and terrorism in the region.<sup>19</sup> In fact, Kosovo holds the European record for terror-related police and legal actions.<sup>20</sup> An investigative report, published online, indicates that, in the absence of evidence, the courts tend to give either reduced sentences or order house arrest for defendants, some of whom have admitted having been in Syria, but claim not to have engaged in terrorist activities.<sup>21</sup> The same report quotes several defendants as claiming that their lawyers, for the most part state-appointed public defenders, have tried to convince them to plead guilty, regardless of the evidence. The same judicial zeal is not evident in other criminal cases, especially the fight against corruption or organised crime, a condition for EU-visa liberalization. A court monitoring report found dozens of corruption cases had been allowed to expire, due to prosecution delays.<sup>22</sup>

The issue has been vehemently debated in the media. The arrest of “jihadists”, as the media label them, became not just a media show, but also spurred harsh confrontation. While some, like Kraja, see the danger as coming from the Kosovo Muslims, other intellectuals regard the state’s response as harsh and disproportionate. For example, Rexhep Qosja, a highly respected academic, has compared the state’s actions to those of leaders under the former Yugoslavia. As he says, “We were accustomed to being put in prison by Ranković and Milošević for nationalistic indoctrination, but I never expected that, in a democracy, Albanians would be put in jail for indoctrination: this time for religious indoctrination!”<sup>23</sup>

Another public figure, Gezim Kelmendi, then a member of parliament from the Justice Party, considered a party with Islamic roots, withdrew from the governing coalition in protest at the arrest of the imams. He denounced the government’s action as “politically motivated” and as revenge against imams who had

18 Kosovo Assembly, *Law on the Prohibition against Joining Armed Conflicts outside State Territory*, <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-002%20a.pdf> accessed 25 May 2017.

19 *Koha Ditore*, “Kosova, lidere e rajonit ne luftimin e ekstremizmit fetar (Kosovo, a leader in the region in fighting religious extremism).” (Prishtine, 2016), <http://koha.net/?id=27&cl=46033>.

20 <http://prishtinainsight.com/total-49-years-prison-five-kosovar-terrorists/>.

21 <http://prishtinainsight.com/kosovos-war-terror-turns-court-farce-mag/>.

22 Balkan Investigative Reporting Network 2016, *Annual Court Monitoring Report*, 2016, [http://birn.eu.com/en/file/show/BIRN%20court%20report%202016\\_ENG\\_web\\_final.pdf](http://birn.eu.com/en/file/show/BIRN%20court%20report%202016_ENG_web_final.pdf), accessed 13.2.2018.

23 *Gazeta Tema*, <http://www.gazetatema.net/web/2014/10/07/rexhep-qosja-kundershton-arrestimet-per-terrorizem-ne-kosove-deklaratat-e-tyre-njesoj-si-te-maks-velos/>

not supported it in the 2014 parliamentary elections<sup>24</sup>. Kelmendi also pointed out the contribution made by the arrested imams during the Kosovo war, noting that most of them had taken part in the fight against the Milošević regime. Later, Kelmendi denounced his own party as well, accusing it of “treason and cheating its voters”<sup>25</sup>. The Justice Party continued to serve in the Government coalition.

Another public debate that arises from time to time is the issue of the *hijab* in public schools. In recent years, there have been cases of girls being refused enrolment at public schools because of their headscarves. Public school teachers have also been suspended for the same reason. A case that generated huge debate in 2016 involved the suspension of Fatmire Bujupi from a public school because of her headscarf. The incident happened at the Drenoc village primary school in the municipality of Malisheva, to which she had been recently appointed by the local authorities as the mathematics teacher. Some parents complained to the school authorities that their children did not want to be taught by a covered teacher and were anxious that “the teacher might broach the topic of religion in her class.”<sup>26</sup> The case was widely debated in the media. Many public figures,<sup>27</sup> including members of parliament<sup>28</sup> and religious leaders,<sup>29</sup> defended her right to wear the headscarf, so long as she was a qualified teacher of mathematics. The Minister of Education, however, said that “she has the right to express her religious beliefs, but not inside public schools, because the hijab itself constitutes a sort of pressure on students and a sort of religious propaganda.”<sup>30</sup>

Under Kosovo law, wearing the headscarf in public schools is prohibited. The issue was debated in Parliament. In 2011, the Justice Party proposed to Parliament two amendments to the *Law on Pre-university Education*. One was to allow schoolgirls wearing the headscarf to attend public schools. The other was on including religious education in the public school curriculum. A majority of parliament voted against both removing the ban on girls covering their heads while attending public schools and introducing religious education into the curriculum.

24 *Portali Tetova sot*, <http://www.tetovasot.com/2014/09/arrestimi-i-12-hoxhallareve-gezim-kelmendi-largohet-nga-grupi-parlamentar-i-pdk-se/>

25 *Zeri*, <http://www.zeri.info/aktuale/22409/gezim-kelmendi-me-shoke-braktis-partine-e-drejtetise/>

26 *Klan Kosova TV*, <http://klankosova.tv/mbulesa-i-nxjerr-probleme-mesimdheneses-ajo-thote-se-po-i-behen-qellimshem-video/>.

27 *Indeksonline*, <http://indiksonline.net/lajmet/halil-matoshi-i-del-ne-mbrojtje-arsimtares-e-cila-mund-te-perjashtohete-per-shkak-te-shamise-33448/>.

28 *Lajmi*, <http://lajmi.net/kelmendi-shamine-e-mesueses-fatmire-bujupi-e-mbron-kushtetuta-e-republikes-se-kosoves/>.

29 *Klan Kosova*, <http://klankosova.tv/tag/fatmire-bujupi/>.

30 Daily newspaper *Koha Ditore* of 22 November 2016, print edition.

## Concluding remarks

All institutional arrangements to date have been made with a view to making a secular and multi-ethnic society in Kosovo. Religious freedom and freedom of association, however, have also been firmly guaranteed under the same legal provisions. This has not prevented the emergence of many religious issues over the years. First, religious communities have repeatedly complained that the current legislation does not accommodate their basic needs, such as the need for proper legal status. The government, on the other hand, has been focused on other emerging religious issues, particularly “suppressing religious extremism and radical Islam”. Non-state actors have criticized the government’s approach to tackling this phenomenon as more reactive than proactive.

The public debate on religious issues shows the existing gaps in institutional arrangements governing religion in Kosovo. The debate over religion and religious issues will consequently continue among those whose goal is to preserve the principles of secularism, those who hold mixed opinions, and those demanding greater attention be paid to the religious concerns of their people.

## Institucionalno uređenje religije na Kosovu

### Sažetak

S obzirom na iskustvo rata, glavni izazov za poslijeratno Kosovo bio je stvaranje okruženja u kojem različite religijske i etničke grupe mogu iznova premostiti razlike i živjeti u harmoniji jedni s drugima. Tokom protekle decenije, religija je imala veoma značajno mjesto u javnim diskusijama i sporenjima. Da bi minimizirala ulogu religije, pa time otklonila i mogućnost incidenata, međunarodna zajednica je uspostavila snažan sekularni sistem. Međutim, ovaj sekularni model nije se zadovoljio odvajanjem države i religije, već nastoji odvojiti društvo od religije, do te mjere da je religija marginalizirana i protjerana među čisto privatne stvari.

**Ključne riječi:** Kosovo, religija, sekularizam, islam