History and Current Debates on Human Rights and Religion in Serbia

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Abstract This chapter reflects on the history of Serbia and current debates on human rights and religion in Serbia. It begins with a discussion of how religion is the cause of differences among people, which is especially evident throughout South-Eastern Europe (SEE) and in Serbia in particular. Through the term "balkanization" the author explains the position of small eastern European countries including Serbia which are characterized as societies overburdened by the "fear of communities". Remarks are made in regard to constitutionals legacy and the process of nation/state building, in which religion has played an important role. Further clarifications with respect to Serbian Christianity are presented and followed by insights into Serbian modern theology and theological figures, as well as an articulation of the theologial basis of human rights in Eastern Orthodoxy and the relation between Serbian Orthodoxy and human rights. The chapter concludes with reflections on students' perceptions of religion in Serbia.

Few concepts are as frequently invoked in contemporary political discourse as human rights. There is something deeply attractive in the idea that every person anywhere in the world, irrespective of citizenship and territorial legislation, has some basic rights which others should respect. At the same time the central idea of human rights as something that people have, and have even without any specific legislation, is seen by many as fundamentally dubious and lacking in cogency. Many philosophers and legal theorists see the rhetoric of human rights as just loose talk (Sen 2009).

Although that contrast between the widespread use of the idea of human rights and the normative skepticism about the conceptual ground of human rights is not new, that suspicion still remains very alive today offering often comprehensive arguments against any belief in the existence of rights that people have unconditionally or arguing against its contextual background in the sense of a legal, political or religious legacy. To sum up briefly: does constitutionalism and human rights presuppose particular conditions and are they unbefitting for some regions and cultures? As Samuel Huntington put it famously: "Western ideas of constitutional democracy,

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constitutionalism, human rights, equality, liberty, the rule of law, democracy, free market, and separation of church and state have little reasonanace in Islamic, Confucian, Japanes, Hindu, and Orthodox tradition.“ Both of these suspicions remain persistent in the region of South-Eastern Europe (SEE) and in Serbia in particular. Sometimes the claim of uniqueness has come from some Western theorists. A good example is Samuel Huntington’s insistence that the “West was West long before it was modern”, and his claim that “a sense of individualism and tradition of human rights and liberties” are “unique among civilized societies” (Huntington 1996, p. 137). As regards the Balkan region in *The Clash of Civilization,* Huntington is not surprised by the violence that overtook Yugoslavia. It is liberal, secular “myopia” to think that ethnic difference is minor. Ethnicity is built upon religious or confessional differences, Catholic versus Orthodox. Millennia of human history have shown that religion is not “small differences” but possibly the greatest difference that exists between people. The frequency, intensity, and violence of fault line wars are generally enhanced by belief in different gods”. Huntington’s normative position is well known and the subject of severe contestation in contemporary public discourse. More importantly that kind of argument is very influential in SEE public discourse. On the one side, the mainstream of religious cultures traditionally is deeply rooted in the belief that the visible religious differences are not been simply rooted in creed, culture and nationality but also fundamental distinction between actual words of life. Furthermore, one has to mention that every religion in area of SEE has been convinced that it is a “religion on the frontier”. Hence, Croatia and Catholicism in Croatia were defined for centuries as *antemurale christiantatis* (a term had been coined by Pope Leo X in 1519) and therefore conceived as under permanent threat and some kind of siege. Former Croatian President Tudjman maintains that “Croats belongs to a different culture, different civilization from Serbs. Croats are part of Western Europe. Serbs belongs to East. They use the Cyrillic alphabet, which is Eastern. They are Eastern people like Turks and Albanians. They belong to Byzantine culture”. In a similar spirit but stressing particularly the role of religion goes the note from Archbishop Stepinac’s diary stating that “all in all Croats and Serbs are two worlds, Northern and Southern poles which never come closer except by Gods miracle. Schism is the main curse of Europe, almost more important than Protestantism”. A similar view is expressed also by the other side. Serbian Orthodoxy perceived itself as guardian of western and southern frontiers of the entire area in peril due to Catholic Church efforts aimed at uniatization as well as the penetration of Islam into traditional Orthodox country. In that spirit Patriarch Bartholomew has recently declared that the Serbian nation has been chosen by God to defend the Western frontiers of Orthodoxy. The same may be repeated for Bosnian Islam. Ismet Spahic wrote “here in Europe we have been exposed to strong wind blowing from all directions” (Radic 2000).

Michael Ignatieff argues that theorists like Samuel Huntington would lead to believe that there is a fault line running through the back gardens of Mirkovci (the village in eastern part of Croatia that was cut in two by Serb-Croat war between September 1991 and January 1992) with Croats in bunkers representing the civilization of the Roman Catholic West and the Serbs nearby representing Byzantium,

Orthodoxy, and the Cyrillic East. I grew up almost in same circle in the western part of Croatia.

The normative stance I raised is in many senses one-sided. Contrary to cultural stereotypes, the histories of different countries in the region of SEE have shown considerable variation over time as well as between different traditions and legacies within the same country. The legacy of open public discussion, toleration and encouragement of different points of view has a long history in the region. As the Millet system, which is an important part of the Balkan legacy, demonstrated, religion was the normative order ingrained in the daily lives of the people which connected them with the realm of political rule. It provided a critical argument against corrupt and despotic government and imposed moderation and restriction upon political rule and thus contributed to the legitimacy of the political order. That legacy of religious tolerance had influenced Balkan perception of secularization within Muslim communities linked it more than in other parts of the Eastern countries regarding the progress of liberty, religious pluralism and the limitation of the coercive power of state. For that reason the public role of religion in Balkan societies was pluralized and contested. It was not reduced to the realm of the purely private. Thus, the concept of constitutionalism and human rights must be modified in view of the fact that ethnic, cultural and religious diversity has become a trait of most contemporary states. There is much truth in the observation that while difference blind institutions purport to be neutral amongst different ethno-cultural groups, they are in fact implicitly titled to the needs, interests, and identities of the majority groups and this creates a range of burdens, barriers, stigmation and identities. Following the concept of "multiple modernity" (S. Eisenstadt) we may say that we live in the age of "multiple constitutionalism"—less individualistic, more communitarian, and arguably more religious (see more, Preuss 2011; Casanova 1994; van der Ven and Ziebertz 2012; Podunavac 2012). In that sense "Quest for Consensus" in complex and multicultural societies and understanding human rights in cross cultural perspective is an urgent question. That is my normative stance.

The introductory frames I sketch raise the complexity of the problem and the urgent need for some theory of human rights and also for some defense of the proposed theory in its very specific context. Although there is some risk of oversimplification involved in any summary formulation the object of my article is to do just that, and to consider, in the context of Serbian Orthodoxy, the justification and status of human rights.

Balkanization

On the European map Serbia is defined as a *Balkan country* in a double sense. The first one is geography. It is relating to the centrality of Serbia in the Balkan Peninsula. Another one is much more important and is related to Serbian collective and political identity. Since the beginning of the twenteith century Europe added to its bundle of *Schimpfworter, ugly words,* the term "balkanization" which sur-

vived almost a 100 years referring to the process of fragmentation of political units, disintegration, border disputes and violence. The English language took the world "Balkan" to form the verb "balkanize" which according to the *Concise Oxford Dictionary,* means "to divide a region up into small, antagonistic states". Serbia belongs to such a type of society, divided along ethnic and religious line and overburdened with specific forms of "existential fear" of communities (Balic–Hayden and Hayden 1992, p. 4). Istvan Bibo in probably the best book written about the political culture of Eastern and Central European countries defines that fear as "fear of communities". Small Eastern European countries speak of "a nation's death or annihilation." They can imagine genocide oppression or slow assimilation, the threat of overnight political elimination as concrete realty. A fear of the existence of community was a crucial factor which in these countries made the *position of democracy, human rights and democratic progress uncertain* (*I Bibo*).

Although I touched the general frame of political dynamics in the region, and Serbia particularly, let me pass very briefly to *constitutional legacy* and a very specific form of *state and nation building*.

Constitutional Legacy and State and Nation Building

As regards the pattern of state and nation building, Serbia got a slower start which produced specific imbalance in the political and constitutional development and set up nationalism as the strongest and most expansive force in the region. The specific kind of division of labor between nationalism and liberalism, in which nationalism is the basic means of shaping collective identity and liberalism is the means of shaping individual autonomies and constitutional limitations of political power, never came into being in the region of SEE. In the SEE region enlightenment, universalism and liberalism have never gained the role they have in the old European states. The reception of liberalism in the region was essentially imitative and limited. The nation becoming a state—that congruence between different forms of citizenship (civic, democratic, social) and different types of state (liberal, democratic, social) did not occur with the gradualness and spontaneity which characterized Western Europe. As regards Serbia, according to the Serbian constitution until the early twenteith century, a citizen is a man and a Christian. The Serbian king is a Serb, a man and Christian Orthodox. In deeper sense the pre-political nature of collective identity (nation) is the basic structural factor which limits the foundation of constitutional democracy.

The role of the founding myth (the Kosovo myth in Serbia with strong religious background and systematically cultivated within the Serbian Orthodox Church) (Duijzings 2000; Vukomanovic 1988). That process, let me recall Michael Rosenfeld, produces a very specific gulf between constitutional identity articulated in the concept of the political ideal of nation and the extra constitutional identity backed on religious, ethnic, and cultural attitudes of people. That frame suggests two notions; first, that a working constitution and how it works depend on the religious,

national, and other cultural identity of those whose constitution is, and second, that for a constitution to function within a polity there is need for a sufficiently defined commonly shared constitutional identity. These two identities the constitutional and extra constitutional, are not same, but they are related and the precise relation is likely to vary from one setting to another (Rosenfeld 2010).

According to the dominant SEE interpretation the extra constitutional entity that brings constitutional order into existence is understood as an ethnically homogenous people, unbound by any normative or legal standard and characterized chiefly by its capacity to realize its otherness in relation both to other people and the liberal universalistic principles. The dominant form of substantive consensus and specific gulf between constitutional and extra constitutional identity explain both the deficit of legitimacy and the low status of the rule of law and human rights in the whole region including Serbia.

In such a climate the role of religion is extremely important and mostly negative. The Serbian nation, just like most of other Balkan nations, did not take shape according to the civic principle, but rather according to the religious one, as a religious community within the Ottoman Empire which used the *millet* system to equate nationality with religion and grant the religious leaders secular power over followers of their Church. Therefore the Serbian nation was built not through the identification with state framework it lived in (like in the West) but rather through identification with the church it belonged to, not as a civic community but as an ethno-religious one. The role of Serbian Orthodoxy is paradigmatic and I will concentrate mostly on that relationship.

Serbian Christianity

More than eleven millions Serbs, Montenegrins and Macedonians are Eastern Orthodox by family background. About a quarter of all Serbs live outside of Serbia. Eastern Orthodox heritage is the distinguishing feature of Serbian national identity. Reflecting Serbian religious heritage, it uses a modified version of the Cyrillic alphabet, a script originally developed by the Byzantine missionary brothers Saints Cyril and Methodius, “Apostles of the Slavs”. According to the official classification of Orthodox Patriarchates of the ecumenical Patriarchate, the Serbian Orthodox Church is ranked sixth, following the Russian and preceding the Romanian. After the schism between the Greek and Latin Churches in 1054, in the Balkan region, Christianity became integrated into the indigenous cultures of the Slavic nations, and the universal Orthodox Church evolved as a fellowship of national churches rather that as a centralized body.

By the end of the twelfth century Stefan Nemanjic (1169–1196), who is considered to be the founding father of the Serbian state, united most Serbian land into a single state. He was much closed to Byzantium which exerted a strong spiritual and cultural influence on his court and his state administration. He built many churches and monasteries, among them Studenica, named “mother of all Serbian Churches”.

Another important figure is his son Rastko ("Saint Sava") who was consecrated bishop by patriarch German in Nicaea. As regards religious legacy and pluralism, an important moment was when his brother Stephen, the "first Crowned", had been crowned by the papal legates in 1217. Sava countered his brother's affinity to the Roman Catholic Church by traveling in 1219 to Nicaea, the refuge of the exiled Patriarch of Constantinople, where he received the title of autocephalous archbishop of Serbia. Upon his return to Serbia he crowed his brother again.

Another important moment is the invasion of Ottoman forces. After the Battle of the Field of Kosovo (1389), Serbia was made a Turkish *pasalik.* Churches were managed by Greek origin bishops (Phanariots). Lower clergy, mainly of Serbian origin, were very poor and almost lacked basic literacy. Although the Ottoman authorities wanted to grant many concessions to the Orthodox community as regard religious life and organization (so called *millet system)* many Orthodox converted to Islam, some of them under the oppression and some in order to maintain privileges or to attain new ones. Mass migrations occurred and many Serbs shifted across the rivers Danube and Sava into the regions of Vojvodina, Croatia and Hungary (Cirkovic 2005; Petrovic 2002).

Modern Theology and Theological Figures

From the middle of the eighteen century, the Serbian Orthodox Church used Russian Church literature and the Russian language as models. Most of the Serbian theologians in the nineteenth century studied at theological faculties in Russia, and religious books from these schools were used in Serbia, but in the Serbia of that time, there was no strong theological thinker capable of adapting Russian ideas to the Serbian milieu. Serbian theological writing at the beginning of twentieth century was mostly composed by apologetic and polemical works. This theology offered some knowledge and information about Christ, the Gospel, the Church and Christianity, but in essence it consisted of sterile definitions, which transformed Christian faith and life into religious and ethical systems.

Bishop Nikolaj Velimirovic (1880–1956) is considering the strongest modern theological figure in Serbian Orthodoxy. Most authors who wrote about him pointed out that with him a new area in Serbian Orthodox theology began. In his early work Velimirovic was prepared to introduce some reforms in Orthodoxy as a result of his studying in the West. Later, Velimirovic would start to show signs of his struggle with European history and culture. After that came his radical derogation of European humanism, civilization, and individualism. He basically opposed the basic values and principles (human rights, individual autonomy, rule of law, democratic legitimacy) which are in build up the modern European state (order). Velimirovic (and his close disciple Justin Popovic) are celebrated as famous teachers of Orthodoxy. In ruthless criticism of Western culture, Bishop Nikolaj described recent Serbian history as a Western plot to turn Serbian folk recently liberated from Ottoman rule into the serfs of the decadent West. Popovic wrote that because European

culture takes humanity as its foundation, making humanism its main architect, European man believes he can proclaim himself God. For that reason, he thought nihilism and anarchism would be the logical outcome of Western hubris.

To sum up briefly, modern universal and secular principles have not taken root in Serbia, because Serbia remained on the periphery of the European modernizing process which represents the cornerstone of the modern European state and unlike Western Churches, the Serbian Orthodox Church does not accept any sort of "secularization". Along with rejection of secular principles, ecclesiastical circles are quite inclined toward delegitimation of religious freedom and of the principle of religious equality. Through their publications and statements, SOC has placed numerous churches and religious communities in the category of sects. The most frequent targets are Protestant churches (so called "subotari") which are being confronted with strong intolerance and even aggression.

Human rights activists have been put in the same demonized category as sects and atheists. Even Patriarch Pavle called human rights activists "sinful minds" thus sharing the view of Bishop Nicola Velimirovic that represents individualism as a "shallow declaration of human rights".

The whole line of younger Orthodox theologians from that time held similar opinions. Leading Serbian theologians tried to revitalize the heritage of Saint Sava, representing him as a saint and leader of the Serbian people. At the same time, polemic postures towards Islam, Catholicism and western culture generally, which dated from times other that of St. Sava himself, were integrated into the theological concepts of *svetosavlje* (teaching of Saint Sava). This theology of nationalism (svetosavlje) was used first as an ideological axis for all Serbs, and after that, it was used to bridge the gap which grew between Serbian intellectuals who were alienated from the Church as result of the influence of western philosophy and political thinking. At the same time, using Kosovo as an unresolved problem within Serbia, the Serbian Orthodox Church offered itself as the traditional guardian of national identity.

Human Rights Values

In the preceding part of this article I pictured both constitutional legacy and the general frame of Serbian Orthodoxy as important elements for fuller understanding of the normative status of modern and universal values and formative principles which determined the foundation of the modern constitutional state in Serbia. In this part of the article I would concentrate on the relation of Serbian Orthodoxy and religion. That relation is of utmost important for understanding that complex question. The picture is not particularly optimistic.

I would start with a few remarks which can give you a deeper insight into the perception of religion in Serbia. Religion is an important aspect of everyday life of the people. People see religion as an important aspect of their culture, mentality, tradition and customs. According to recent research the Serbian Orthodox

Church receives the highest level of support within the population. Such a view is expressed in different ways. In research conducted among students of Belgrade Open School, some of the students felt a special connection with their country when they entering monasteries, some of them wanted to baptized their children, some of them mentioning tradition interwoven with religion. At the same time they also mentioned that religion is something that got too much attention in recent times. For them it was no longer something natural, but more and more a kind of fashion, and they took some distance from religion. By and large I would say that Serbia is passing through a specific process of "recovery of religion" including the rise of conservative groups within the Orthodox Church. That process was followed by a redefinition of relations between state and church with the introduction of religious education in school, entering churches into structure of Serbian Army, reintegration of the Theological Faculty into Belgrade University, and opening the legal process of restitution of Church property.

The human rights agenda has never been high within the Orthodox Church. There is no any systematic work about human rights within Serbian theology. There is no research institution devoted to the corpus of human rights. The basic document, including *Declaration on the Elimination of All Forms of Intolerance and the Discrimination based on Religion or Belief (1981)* was translated after 28 years. The same is true regarding the document of the Russian Church and *Social Though of the Catholic Church* (Bigovic 2009).

Theological Basis of Human Rights in Eastern Orthodoxy

I would particularly stress three more general factors (obstacles) which give us deeper insight into relations between Serbian Orthodoxy and human rights—all of them are strongly related to the deeper nature of Serbian Orthodox theology. The first is *organicism;* another one is *anti-individualism,* and the third is strongly related to the problem of *collective and national identity.*

The Eastern Orthodox tradition, in understanding itself as standing in unbroken continuity with the early church, bypasses the secular basis of human rights. As such, it locates human rights in God alone as the source of moral good, recognising the true nature and dignity of humankind to be revealed in the Trinity. In communion with the triune God, each person attains an understanding of his or her humanity. In relation with others we, in turn, recognise the dignity of humanity that is created in the image of the Godhead. For Orthodoxy this God is pre-eminently a triune God. The Father, Son, and Holy Spirit find their being in the fundamental relationship that exists between them. Being created in the image of this (triune) God, relationships are seen to constitute the basis of a spiritual; imperative for human beings to live in mutual respect and community with one another. It is this theological basis, rather than the secular humanism of western liberalism or the anti-theisttic tradition of the French human rights tradition, that inspires Orthodox commintment to the Universal Declaration of Human Rights and other documents.

In Serbian Orthodoxy that general theological justification is upgrade with organic conception of order which presupposes In brief, it is concept of the society where the individual merges into organic whole and hence reject individualism and pluralism, and adopt the principle of collectivism and solidarism or, in the Serbian variant of this teaching, the "convocational "and the "master of the house" Orthodox ethics. According to organic theory, the society represents organism and individuals are merely "cells" serving the function of such an organism. The optimum is "organic Orthodox monarchy "based on unbroken Trinity" "God-king-master of house". The man who probably contributed most to development of such organic ideal of community was Juraj Krizanic, one of most influential writers in the seventeenth century. He wrote that "no one can live for himself, i.e. no one is borne exclusively for himself and to care only for his own pleasure. Every person must have an occupation that is useful also for all other people, and earn his own bread by it. And such labor in common includes that the peasants, the artisans and the merchants produce everything needful to support and feed all the ruler's subjects… The rulers, the boyars and the warriors sit in judgment, wage wars, protect the public peace … The ecclesiastics, bishops and priests supply everyday spiritual comfort, with light and learning. The monks and nuns pray to God for everybody's sins" (Szamuely 1974, p. 84). It is therefore a model that reject the very basis of the modern state and society, including very basis of human rights. That "symphony" model between the State and Church is strongly supported by Serbian Patriarch Pavle who wrote "we believe that the best relationships between the state and the church is the one which already exists, namely symphony". The organic ideal of order is the very basis of Serbian legacy, strongly affirmed by the most influential Serbian writer Dobrica Cosic, who argues that organic unity, Serbian land and ordinary people (peasants, soldiers) are the core of Serbian collective identity.

Students Perception

If you look at attitudes of young people to religion (I have in mind a limited group of students at Belgrade Open school) you can discover that religion is an important part of their identity. Although, almost all students saw the Serbian Orthodox Church as a central part of their national identity, a lot of different views exist about how people should deal with religion. One can seen ambiguity and disagreement about religion among students. A lot of students keep their distance from religion, others become even more religious and yet another group fulfills their nationalistic attitude toward religion. Religion still has an important role in creating symbolic borders both within Serbia and in the region of the whole including Europe. In that sense among students Islam is generaly less appreciated and less valued than other religions in Serbia.It is intersting that studensts would refer to Byzantium or schism of the church, but no single word is said about the Turkish religious influence, which is one of the most obvious influences in Serbia and in the Balkans as a whole. Religion was used as the more visible divider between countries and today

it seems that people are still tending to do this. Religion has a major role in the national identity of Serbian people as well and most students agree that it is one of the main features of their country in Europe. But, it is interesting that, while saying this, no unity exists among students concerning the perception of religion in their daily life, and on the individual level. This is where religion is differently exeperienced and perceptions about it are divergent. On the other hand, while talking about integration in the European Union, the cooperation and religious tolerance between people of different religions seems to be major goal. Apart from this, one tends to forget that more than one religion is present in the country and that many people are agnostic or atheist (see more: Vukomanovic and Vucinic 2000).

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