Church and State in countries of Former Yugoslavia

legal and political legacy of communist regime
Introduction – scientific interest for the topic

**First reason:**

- Despite the fact that after the fall of the Berlin Wall and dissolution of the Soviet Union in the early 1990s, the communism does not present any more a serious threat nor political alternative, it has not completely disappeared from political discourse.

- As a matter of fact, world’s largest nation and leading emerging economy – China – is still defined as a “socialist state under people’s democratic dictatorship”. (China’s Constitution from 1982)
Second reason:

- Even today, there are political views and scholar’s writings that defend the communist political regimes as a secular since they:
  - proclaimed a separation of state and church,
  - banned the religious education (catechism) from schools.

- According to these opinions communist states – as officially neutral states in matters of religion – successfully avoid discrimination based on religious beliefs and treat all it’s citizens equally.
The aim of this presentation is:

A. In general, to show why it is wrong to believe in secular character of communist state and especially its anti-discriminatory politics,

and

• B. In particular case of former Yugoslavia, to demonstrate how communist regime was unsuccessful in attempt to avoid the confessional conflicts.
A. Communist state is not a secular state

By its definition, the secular state is a state supporting neither religion nor *irreligion*.

- On the other hand Marxist scientific atheism as the official state ideology of Soviet Union and other communist states was openly anti-clerical. It condemned religion as the “opium of the people” because it promotes passive acceptance of human suffering in poverty and capitalist exploitation.

- In other words, the separation of state and church in communist constitutions has not been used in order to avoid discrimination based on beliefs, but quite opposite, to apply Marxist ideology and establish discrimination by the promotion of one single belief – belief that there is no God.
Examples:

• In most of these countries Marxist atheist ideology is a mandatory subject in public high schools and universities.

• Religious liberty is proclaimed but restricted and without serious guarantees:

• Article 124 of the first Constitution of USSR proclaims freedom of religious practice and irreligious propaganda.

• Article 88 of the first Constitution of communist China proclaims religious liberty but denies voting rights to the members of ancient nobility, capitalists and to all those who cherish some kind of religious beliefs.
Exceptions:

- Not all of the communist countries promoted separation of state and church in their constitutions.

- There were some communist regimes that took extreme political positions, highly intolerant towards religion as it was the case with Albania. Albanian communist party in 1967 proclaimed Albania as the first atheist country in the world. Albanian penal code from 1977 imposed prison sentences of three to ten years for “religious propaganda and production, distribution, or storage of religious literature”.

- On the other hand, there were some Eastern European countries – such as Eastern Germany, Romania or Czechoslovakia – that kept official relationship between state and church in order to have better control over religious activities and organizations.
• In Romania, state could freely recognize or deny administrative recognition or even completely forbid any religious community.

• In Czechoslovakia state continued to finance church activities – priest were treated as public servants with salaries, retirements and social security covered by public funds. Religious education remained part of public school curriculum.

• In Eastern Germany, state imposed and charged a church tax from it’s citizens.
Finally, in all of the communist countries (except Albania and Soviet Union), state kept the constitutional possibility (not an obligation) to financially support the religious communities:

- by paying salaries, retirements and social security to priests
- by financing the reconstruction of churches and shrines
- by other donations

Previously, and for the same purpose – to make church dependent on state financial help – communist regimes deprive church of it’s land property and real estates through nationalization and restriction of money collection from the believers.
• The Polish Catholic Church was the only one which refused any kind of state financial support in order to preserve it’s independence.

• In general, The Catholic Church gave far more resistance to communist regime and it was often in open conflict with the state.

• There are several reasons for that:

  1) Center of The Catholic Church is abroad – Holy See in Rome – out of reach of ruling communists parties on the east.

Therefore, there were no communist countries with a concordat (Poland) or even diplomatic relations with Vatican (Yugoslavia 1966).

E.g. Chinese constitution of 1982 explicitly says “religious bodies and religious affairs are not subject to any foreign domination”

This is why many communist regimes tried to organize the independent national Catholic Churches separated from papal authority in Rome (successfully only in Albania)
2) *Societas publica* - a wide social mission of The Catholic Church (Caritas) with many political aspects (and following political organizations) far beyond its basic religious tasks.

3) An extremely negative position of Holy See towards communism as a totalitarian ideology: Pope Pius XI condemned communism in his encyclical *Divini Redemptoris* in 1937. Then, in 1949, the *Sacred Congregation of the Holy Office* issued a decree imposing excommunication and other penalties on Catholics who professed, defended, or propagated the materialistic and anti-Christain communist doctrine.
• In the countries with Orthodox majority (Bulgaria, Romania, Russia) as well as in the countries with Protestant majority (Eastern Germany, Estonia) opposition to the communist regime was weaker. It was because of specific Orthodox and Protestant theologies and political tradition in favor of state domination, control and interference in church affairs.

• The least worries communists had with Muslim communities (Albania).

• Since communist Yugoslavia was a country with no religious majority (less than 50% of Orthodox (mainly in Serbia, Macedonia and Montenegro), around 40% of Catholics (mainly in Slovenia and Croatia) and around 10% of Muslims (Bosnia and Kosovo) it’s case study contains a panoramic picture of Eastern European experience all together.
B. Communist regime in Yugoslavia and it’s failure to avoid a religious conflicts
Present day situation:
• In the earliest period of European history the frontline between Byzantine Empire and the Holy Roman Empire (i.e. the sphere of influence of the Roman Catholic Church and the Orthodox one) passed across the Balkans and coincided pretty much with the today’s Serbo-Croatian frontline.

• The presence of Islam in Bosnia and Kosovo, as well as in many other parts of the Balkan peninsula (especially Bulgaria, Albania and European part of Turkey) is a result of the Ottoman rule longer than five hundred years.

• The fact is that the most important Yugoslav ethnic communities: Serbs, Croats and Bosnians belong to the same linguistic community and that the only aspect of distinction between them is religion. Therefore, religion appeared as a distinctive feature and a starting point for development of national self-consciousness.
• At the end of the First World War, all these nations were politically reunited in a common state – Yugoslavia - ideologically based on a romantic representation of a unique South Slavic nation composed of several tribes separated by religion but speaking the same language.

• This, so called First Yugoslavia, was a state with the three officially equal religious communities – Orthodox, Catholic and Islam – but in reality, it was a state with Serbian domination.

• Serbian domination provoked separatistic tendencies which culminated during the Second World War - the first bloody conflict among Yugoslav nations, especially between Serbs and Croats.
In 1945 The Yugoslav Communist Party took the power and tried to inhibit Yugoslav nationalism by an oppressive politic towards religion. The communists had been charging three leading religious communities (Orthodox, Catholic and Islam) as the main accountable for the war atrocities and the hostility among Yugoslav ethnic groups.

For nearly 50 years, from 1945 up to the fall of communism in the early ‘90, the official atheism and anticlericalism weren’t only a reflex of a ruling Marxist ideology (like in Poland or other Easter European countries). They were also specific political strategies against nationalism.

In other words, religious practice had been seen not only as a sign of a conservative or antirevolutionary behavior, but as a manifestation of national feelings or political views.
• It is curious that communist resistance during the WWII maintained a cooperative relationship with the religious communities (there were priests in many partisans combat units; commissar for religious issues in partisan headquarters was an Orthodox priest) and they did not enforce any specific anti-clerical activities on the free territory under the partisan’s control.

• In the first years after WWII, Yugoslav communist leaders used to assist to religious celebrations. They also tolerated religious holidays up to 1948, religious education in public schools up to 1951 and street religious processions and ceremonies until 1947. Yugoslav communist regime had broken diplomatic relations with Vatican not before 1952.
According to the first Yugoslav communist constitution from 1946, church and state were separated:

Church marriage was not recognized by civil authorities, as well as all civil registers of births, marriages and deaths of citizens that used to be in competence and possession of church until 1945. School and Church are separated.

Constitution from 1963, in the article 46 says:

- “The profession of religions is free and shall be everybody’s private affaire”
- “Religious communities shall be detached from the state and shall be free to perform religious functions and religious rites”
- “The religious communities may establish religious school in which to train their clergy”
- “The social communities may give financial assistance to the religious communities”
According to the Basic law on the legal status of religious communities from 1965, the religious liberty understood:

- The freedom of worship was allowed only in the shrines and other religious facilities. Exceptionally, persons finding themselves in hospitals, boarding institutions or retirement homes (but not in school, prisons or military quarters) may be visited by a priest if they so demand (Art. 16).

- There are no public religious services such as religious processions (Art. 13) or money collecting (Art. 12) without the previous permission of local authorities.

- Acts of disturbance of religious services were penalized by article 313 of Criminal Code

Any kind of religious activity is strictly forbidden in army units:

- no religious rituals
- no personal religious insignias
- no religious literature
- no religious funerals
Separation of Church and School understood:

- Prohibition of private religious schools, except those who served exclusively for the formation and education of priests (seminaries, theological higher schools, Muslim madrasas) (Art. 4 of the Basic Law)

- Since 1948 all Faculties of theology are excluded from state universities which they have been part of for centuries.

- According to the Art. 19 of the Basic law, religious education is free but restricted:
  
  - could be organized only in temples or other religious facilities,
  - only after class hours in regular schools,
  - and only upon an agreement of both parents (from the new law of 1977, upon a permission of at least one parent) and the consent of the child itself
• There are three types of state financial support to religious communities:

  1. State assistance in maintenance and reconstruction of churches and shrines that had been classified as historical or cultural monuments.

  2. Personal grants to the needy, helpless and old priests or to those who cannot live from their income in undeveloped regions.

  3. State covering of priest’s salaries, retirements and social security costs upon an agreement between religious community and government.
• Like in Poland, in order to preserve it's independence, the Catholic Church in Yugoslavia did not want to sign this agreement with Yugoslav government. Some resistance came from the Orthodox church too.

• Therefore, communist regime decided to sign this agreement with the Free association of Catholic priests as a kind of professional organization, autonomous from the Catholic Church hierarchy. Priests who were less loyal to the church leadership and especially those with the poor financial situation were ready to step into this association.

• State financial support for the priest's salaries and social security effectively divided the church:
  
  - 40% of Catholic priests were registered as the members of this free association in order to improve their material position but, against the will of their bishops.
  - 80% of Orthodox priests.
  - 95% of Muslim clergymen.
• In general, Muslim religious community was the most cooperative in former Yugoslavia.

• An illustrative example is the prohibition of the Muslim scarf – a veil worn by some Muslim women in the presence of any male outside of their immediate family, which usually covers the woman’s face, head and chest.

• Communists started their campaign against the scarf in 1947 with the full and undivided support from Reis (leader) of Yugoslav Muslim community and the majority of clergymen. They were claiming that the scarf is not a part of Islamic religious doctrine, but a bad and obsolete tradition (Kosovo was an exception).

• The local laws that forbade the Muslim scarf were enacted in Bosnia (1950), Serbia (1951) and Macedonia (1951).
Conclusion:

- Despite the fact that communist regime found a way to renew diplomatic relations with the Holy See in 1966 and to coexist with main religious communities, political tensions continue to rise between Yugoslav nations and confessions.

- The fall of communist regime in Yugoslavia was followed by a renaissance of religious practices and church activities which went along with an explosion of nationalist political movements that finally culminated in 1991 causing the new bloody Civil war that lasted until 1995.
• After the last Civil war, none of the ex-Yugoslav countries (except Slovenia) had chosen a secular constitutional framework and state policy, but they have decided to back and endorse their own national and traditional church organizations.

• In our opinion, that was the consequence of an obvious absence of any secular political tradition that supposedly could have been inherited from communist Yugoslavia.

• Communist regime in Yugoslavia, just like any other communist regime, was not a secular one but an anti-clerical one: based on discrimination of believers and privileges for atheists.

• It’s all the same in ex-Yugoslav countries today... Only the roles have changed....