



Research Article

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Received: 21 November 2020 / Accepted: 11 January 2021 / Published: 17 January 2021

The Impact of the Communist Regime in Albania on Freedom of Religion for Albanians

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DOI: <https://doi.org/10.36941/mjss-2021-0004>

Abstract

The multi religions Albania passed last century from a country where atheism was the constitutional principle in a country where the basic card guarantees not only the freedom of religion but also the freedom from religion. Today, in order of guaranteeing the freedom of belief, the Constitution of Republic of Albania expresses principles which protect the religious freedom, starting from its preamble. Indeed, the preamble has no legal force but stated goals and assists in the interpretation of provisions. The spirit, with which the preamble stated, is that of tolerance and religious coexistence, in a vision where the people are responsible for the future with faith in God or other universal values. This statement reinforces the principle of secularism of the state where the latter appears as the guarantor of religious freedom by knowing in this perspective the beliefs that "sovereign" could have and can develop. In this context, the real guarantee is given to us by Article 24 of the Constitution which expressly guarantees the freedom of conscience and religion, in a perspective where any person has the right to choose if changing or not his religion or belief, so that this article appears not only as a guarantor of freedom of religion but also as a guarantor of freedom from religion. In a context like that of Albania, where for 40 years the religious freedom has been denied, and because of religious beliefs was conducted genocide, cannot be missing in its Constitution this freedom. Today it appears more consolidated than ever, from a vision that guarantees such as the freedom to choose and change religion by manifesting them freely in public or in private life, into a vision that guarantees also negative freedom or atheism. The purpose of this paper is to point out that otherwise than the socialist Constitution of 1976- which provided anti-religious atheism forms in a context where the faith was determined by the state, based in a "monotheistic" ideology and realized through policy, which denied any type of faith beyond what the material world of communist ideology had in foundation- the current one appears, secular and neutral in matters of religious faith by guaranteeing a as consequence the atheist beliefs as well.

Keywords: atheism, freedom of religion, constitution, neutrality

1. Introduction

By etymology itself *àtheso* means “without God”, this word is also found in the Old Testament¹, perhaps atheism is considered a modern phenomenon, but it has its roots in antiquity. In reality, “*atheism is as old as human thought, and since the beginning it has been set as one of the ways to see the world: a world where man is alone against itself and nature*” (Minois, 2000).

What is important is the meaning of this word, which is univocally a philosophy that opposes monotheism, polytheism, pantheism, etc...If we look in retrospective, we see that in the whole history of mankind, when it comes to atheism usually it is addressed to individual, which is often seen as a person without morals². No doubt this was not the opinion of communist doctrine, which Hoxha used to aspire.

In fact, the first who support atheism as a method of governance were the French who actively sought to eliminate any superstitions from the minds and hearts of the people. Later, atheist thinking made great steps with proponents of communism that promoted a *state atheism*, the latter had an important place in Marxist–Leninist philosophy and its thought variants had a great influence.

In fact, philosophers have been convinced that atheism has an inferior position against religion, certainly they have not known history of Albania, where no doubt atheism had a dominant position, not only on the conscience of individuals but also in its legal order.

Precisely, given the words of Marx, according to which “*God was a false problem*” and religion was the feeling of a world without a soul, and therefore he called it as the opium for the people (Marx, 1844). Also, Lenin envisioned atheism as a spiritual drink under the effect of which drunk slaves used to lose their freedoms and rights (Minois, 2000).

Given these doctrines, dictator declared war on God, not only to others, as usually happened in history, but also to his own. The expression of Grozio “*Etsi deus non daretur*” (Antonio & Grozio, 1948) appears to be the first question that skeptical atheist, state or individual, lays himself. Also, *if God did not exist*, expresses better the situation of atheist Albania, but at the same time points out that, notwithstanding the existence of God, individuals have certain natural rights, where one of which is the freedom not to believe in a transcendent being.

Today it seems as if all the secular methods revolve around this expression, but it would be wrong to identify in it, because state as secular and neutral institution cannot afford denial of universal values. This could do only the atheist state during Communist period (Spinoza, 1986).

2. Constitution of 1946, and Measures in Favor of Atheism

After German fascists left Albania, Hoxha came as triumphant in Tirana and his early policy seemed not at all an anti-religious one. Actually, the catholic clergy had not a special liking for him, but it was as a result of their anti-communist attitude and they did not think that after all centuries of Christianity in Albania – since the passage of Paoli in Illyria– Hoxha would reach to eliminate them.

In fact, the post war period found Albanian clergy poor by dogmatic preparation, because the expulsion of foreign churchmen by King Zog had brought also a decrease in the level of interpretation of sacred books. King Zog also was accused by Catholics, and not only, he was without scruples against religious phenomenon, as a result of numerous reforms he took over his empire. It is worth to mention here the Islamic veil prohibition or closure of religious schools. But as it is shown by time, these measures were not anti-religious acts, but simply as part of a project to modernize the country.

As in the time of King Zog, where the constitution stipulated clearly the principle of secularism of the state and freedom of religion, also the Constitution of the People’s Republic of Albania of 1946

¹ Specifically, in the Letter for Enfesins that Paolo of Tarso wrote during his detention. Indeed, some of the scholars have real doubts whether this letter was written by the latter, but it matters little to the analysis that we will pose.

² Voice “Ateismo” Zanichelli encyclopedia under the auspices of Edigeo, *Dizionario enciclopedico di arti scienze, tecniche, lettere, filosofia, storia, diritto, economia*, Bologna, 1995.

(revised in 1950) provided in Article 18 the freedom of religion and consciousness.

Also, this article provided the principle of secularism of the state in a less equivocal formula as it expressed that “church is separated from state”. Effectively, most scholars are of the opinion that this is merely an interpretative problem, because even in Albanian statutes, e.g. at the Prince Wied statute this word was rather used as a synonym for religion (Dammacco, 1994).

In particular, this article provided that *“To all citizens is guaranteed freedom of conscience and religion. The church is separated from state. Religious communities are free in their own faith and in their foreign exercise and practice. Church and religion are forbidden to be used for political purposes. Also, religion-based political organizations are prohibited. The state can help materially religious communities”*. This article creates “unconstitutional basis”, in which was supported all anti-religious policy of the first years of communism.

Above all, freedom of religion is protected not only by the Constitution, but also by civil law, namely Article n. 19 provided the right to enter even a religious marriage, no doubt that the state had a jurisdiction reserve regarding separation, divorce, etc.

Even the Basic Card in addition to freedom of religion, recognized a number of other rights that knowingly specified that freedom, as for example freedom to express the opinion freely or not, the freedom to organize into associations, which undoubtedly goes and strengthens the freedom of religion.

But despite that the constitution was a guarantor of rights and whether it provided constitutional techniques, which did not allow the limitation of these freedoms, Hoxha started a xenophobe war against religions (Maceóin, 1951; Morozzo Della Rocca, 1978; Morozzo Della Rocca, 1990).

The first religious community that perceived its anti-clericalism was the Catholic one, accused often for anti-patriotism and betrayal. Because of their relationship with the Vatican they were placed in the eye of a cyclone. Hoxha was not generous even towards the religion he belonged to. Charges for the latter was that it was not the original religion of Albanians and therefore it had to be fight.

But even the original religion of Albania, the Christian one, despite being placed centuries ago Ottoman rule, it was imposed. Even the true religion of Hoxha “Marxism-Leninism”, like the Moslem and Christian one, was brought from abroad, maybe this times even away than themselves. The first step of dictator was the confiscation of all properties of citizens and churchmen, and perhaps because of this reason it was not perceived as anti-religious.

The second moment when we see the real intentions of the dictator, was the closure of religious schools. In fact, this step had been even taken by King Zog (Lo Giacco, 2003; AA.VV., 2013). At that time the situation erupted into a debate on secularism, where more than ever we see an active Fishta, but the case of the closure of religious Albanian schools went even to the League of Nations. But in the years after World War II, in the communist Albania, it seemed no one was left out where Albania could seek help.

In fact, Hoxha justified the closure of religious schools based on Article 31 of the Constitution of 1946. In it was expressly stipulated that educational institutions were separated by religion or church as it was written more accurately (Shilegu, 1985; MacÉOIN, 1951). This decision was reinforced even with a ministerial decision in 1947 where despite the order, clerics used to teach privately.

Slowly-slowly policies became even more severe (Riccardi, 2000), by imprisoning and executing clerics, were the Bible and the Koran were taboo books, prior censorship was everywhere and the State of citizens turned into a prison for all (Qesari, 2004).

In fact, the goal was that before the announcement of atheism, the clergy should be weakened and weaker than that, it had never been. So, in 1949, the government proposes to presidium decree n. 743 through which it would be re-recognized legal personality of religious communities. So, they should introduce the new statutes, which must conform to the Constitution and the decree. But in itself the decree conflicted the constitution and even his own text.

In particular, it provided that the communities with their program had to support the communist party program, then develop to religious people the spirit of national unity. This article

conflicted so directly with the constitution as expressed in Article 3, that in any way churches or religions cannot be used for political purposes (Cimbalo as cited in Tobias, 1956).

Insanity seemed to have no end and after the introduction of the Statute by the Catholic clergy, it was changed unilaterally. In the new Statute the Catholic Church was autocephalous and separated from the Vatican or more precisely as stipulated in Article 1 of this statute, the Albanian Catholics have no longer any political, organization or economic relationship with the Pope (*Archive of the Ministry of Interior*). This unwanted independence was a strong sign of dictator's xenophobia against foreign occupation.

The first anti-religious steps were totally anti-constitutional and any decree went against its principles (Pearson, 2006; Akgönül, 2005). So, the Decree No. 4337/1967 eliminates the Decree No. 743/1949, thus automatically religious communities in Albania became illegal after cancelling all their statutes. These latter for the clergy were almost a constitution and above all they gave legitimacy to the actions of their bodies (Morozzo Della Rocca, 1997).

Situations escalated, imprisonments, murders, executions happened every day, clergy were weak, Albanians were frightened, state atheism was closer than ever (Zickel and Iwaskiw, 1992; O'donnell, 1999).

3. The Constitution of 1976 and Constitutionalisation of Atheism

After an ideological battleground that Hoxha had declared not only to religion and clergy, but also to Anatolian customs in Albania after numerous imprisonments and executions, after prior censorship of the communication media, the fear that already arouse the people, after even a worship by some people, the next step was to enter into force the new constitution which would make Albania the first atheist country in the world.

Even Marx himself had not gone so far. Thus in 1976 the neo-Constitution turns Albania into Popular Socialist Republic. New Spirit would be understood in the preamble where religion used to be compared with darkness.

But in its Article 37 was provided clearly that state recognizes no official religion and supports atheist propaganda in order to inspire people with materialistic and scientific concept on the world (Galli, 2005). This was the "new man" that Hoxha aimed to create. Atheistic policy of dictator was not passive, because if it would have been such, it would have the forms of an indifferent secularism by the state, but this active aspect of it, makes it so special for analysis.

Also, legally we see a suppress of individual freedoms, since now the collective freedoms were more important and even being against an idea, was not a private fact, but a privilege that only the mass could have. Atheism as communist doctrine aimed at the emancipation of young Albanian man, through science and freedom of mind with a new outlook, where God was no longer needed.

Also, Article 55 of this constitution prohibited openly organizations of fascist, religious, anti-democratic and anti-socialist character, so religion was compared not only to fascism, but also to anti-democracies. In amplification of these articles of 1977 even the Criminal Code enforced the prohibition of religious propaganda, specifically in Article 55 thereof.

In this vision no one had the right to express religious belief or to practice it, or express its opinions about religion through the media or the press. Consequently, atheism brought the mortification of a series of rights and freedoms as it to manifest freely beliefs or the right to get organized in associations.

These deprivations of basic freedoms brought consequently in Albania a real religious genocide. After the collapse of regime, religious communities counted their missing clergy in the labor camps and the panorama of the state along the Adriatic Sea seemed more tragic than ever.

4. Constitution of 1998 and Atheism as Individual Freedom

After the death of the dictator, the situation regarding religious beliefs begin to soften. It was thanks

to a more lenient policy that Mr. Alia undertook. But with the problem of religion and backward habits, he inherited also the economic problems of the country. For this reason, the isolated state began to open to the world.

In 1991, following the victory of the communists, the government of Alia issued the constitutional law No. 7491 of 1991, by which repealed the constitution of 1976 and with it also the principle of State atheism.

In fact, this Constitution did not provide for the principle of secularism of the state, nor freedom of religion, but in it we see a return to the principle of human dignity, which itself is able to absorb and protect all the rights and freedoms because it in itself is an essential pillar for the interpretation and protection of the latter. So, churches and mosques were opened and people began to pray, apparently state atheism had not reached its goal to return Albanians to not religious people (Lubonja, 2005).

The law of 1991, also called provisional constitution, was enriched by a constitutional law in 1993 after the Democratic Party won the elections. So, the law No. 506 from the name itself, stipulated a number of freedoms and rights, among them freedom of religion (Dammacco, 1995).

Thus, Article 18 provided not only freedom of expression, but along with that, also the freedom of conscience and religion. It provided also that anyone is free to honor and to freely manifest it individually or collectively in public or private life, through cult, practices and rituals (Cimbalo, 2011).

These were the first steps that Albania took towards the path of Europeanization of its legal order. But only with the Constitution of 1998, we can say that we have a full guarantee of freedom of religion and conscience.

In fact, an important contribution to drawing up the current constitution gave the Venice Commission and the goal was to strengthen the democratic institutions and standardization of freedoms and rights framework of not only European ones, but also those global. In fact, the constitution of 1998 itself, being fairly new, has acquired experiences and the latest doctrines in the field of human rights and freedoms. It often appears to us more guaranteeing that European Convention on Human Rights (Cimbalo). The new constitution was approved by the people through a referendum held on 22 November 1998.

Since its preamble, we understand the desire of the Albanian legislator to return God in the State that declared war against it, exactly in it is declared that Albanians responsible for the future and with faith in God, or other universal values with the determination to build a democratic state of law, decided for the new freedoms card.

The fact that this constitution in the Preamble provides something like that, does not mean that the state has a confessional character, not at all, in this way the State has recognized the right of his people to have faith in a supernatural being.

In its article 10 is provided clearly the principle of secularism and neutrality in matters of religion and conscience. What is important for our analysis is provided for in Article 24, where this constitution stated that every person has the right to religion and conscience but also the right to choose and change faith, but also its beliefs (Anastasi, 2004). Exactly this article states that "Everyone is free to choose or to change its religion or belief, and to express them individually or collectively in public or in private, through cult, education, practice or performing rituals".

With the word "*conviction*", we understand that the Albanian legislator wanted to protect the freedom of atheism in a vision that freedom of religion guarantees also freedom from religion. So "*conviction*" can be not only religious, but also secular, because an individual cannot be convinced of the existence of a superior being. But also, this thesis is reinforced by the last paragraph, which states that "*No one may be compelled or prohibited to take part in a religious community or its practices, and to make public its opinions and beliefs*".

For more, it should not be forgotten the guarantee coming to this freedom from freedom of conscience, since the latter is a widespread phenomenon and absorbs within it not only religious beliefs or not, but also philosophical, political ones, etc. So, without doubt, we can say that Article 24 of the constitution guarantees also the negative freedom of religious belief.

Also, we should not forget that unlike the communist regime in the current Constitution, is provided also the principle of state (Morozzo Della Rocca, 1994) secularism and in Article 10 it is provided that “the State is neutral in matters of faith and conscience and it guarantees the freedom of their expression in public life”.

Today, atheist thinking is protected also by a number of international cards like the ECHR, UDHR, etc.

5. Conclusions

As results from our analysis, Albanian state passed from the principle of secularism of the state to that of active atheism, where during the communist period the expression “Etsi deus non daretur” seemed to inspire the state institutions. The process that exploded in state atheism passed previously in a bitter ideological battle based on Marxist doctrines and on a second moment, it became part of the Constitution of 1976. But the collapse of the old regime revealed that atheist state had not returned to godless its citizens and for this reason it was inevitable for the Constitution not to contain such an important freedom.

It should not be denied that freedom of religion has also its negative side, i.e. atheistic beliefs that the individual may have for which *Etsi deus non daretur* is almost a natural right that the constitution cannot deny. So, without doubt, we can say that its finds his tutelage in Article 24 of the constitution.

This study makes us understand that the state can not be atheist, but individuals can. The state should be in the spirit of neutrality that should characterize it and guarantee also the negative freedom of religious belief.

So, *etsi deus non daretur* is not a person who denies God, but perhaps a person that thinks outside the hypothesis of God (Scarpelli, 1998). This expression of Grozio, brought to the extreme by atheist Albanian State, carries its jusnaturalism idea that can be an inspiration also for democratic States, as in it is hidden the essence of the principle of secularism in a view that state institutions must act as if God was not, but they must respect the religious beliefs of citizens. On the other hand, only the individual has the right to mature atheistic beliefs as a natural right protected by the State.

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