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In pursuit of 'twin toleration': democracy and church–state relations in Serbia and Montenegro¹⁵³

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Abstract

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This paper explores the relationship between church and state in Serbia and Montenegro by examining the development of 'twin toleration'. In particular, it aims to explain why there is still no 'twin toleration' in these states, and why it is important to impose such institutional arrangement in church–state relations. The 'Twin toleration' concept suggests that institutional arrangements between the state and religious communities in a democratic society should be based on mutual autonomy, in which the state should not interfere in the matters of religious communities, and vice versa. However, since the fall of communism and resurgence of religion, both the Serbian and Montenegrin states have tended to have close relations with the dominant religious communities in order to achieve their narrow political interests. On the other side, religious communities often interfere in political issues. Such a situation does not contribute to the further development of democracy in these countries. In this paper I employ content analysis in order to investigate constitutions and specific laws on religious communities, if any, in the states mentioned above. Besides its theoretical perspective, aim of this paper is to offer practical suggestions on how to rearrange church–state relations in Serbia and Montenegro in order to make these countries more democratic.

Keywords: religion, democracy, 'twin toleration', Church-state relations, Serbia, Montenegro

Introduction

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The collapse of communism all over Eastern Europe, and Western Balkans, triggered two equally important social and political processes. First was democratisation, a 'transition

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from authoritarian towards more democratic regimes'.¹⁵⁵ On the other hand, societies of Eastern Europe, including the Western Balkan states, experienced the resurgence of religion.¹⁵⁶ I believe it is logical to presume that these two processes have been interrelated, as religious communities are important historical, cultural and above all political actors in Western Balkan societies. Did religious communities help or hinder the democratisation process across the Western Balkans?¹⁵⁷ Although this is a very important research question, in this paper I will argue that Western Balkan societies are now in the stage of consolidation of democracy. Therefore, in this paper I will tackle the issue of the role of religion and religious communities in this process, by examining church-state relations in Serbia and Montenegro and their consequences for the consolidation of democracy in these two countries.

Of course, this paper does not argue that the role of religion and religious communities is the single most important aspect of democratic consolidation in Serbia and Montenegro. However, it strongly argues that the imposition of a specific form of church-state relations, namely 'twin toleration', has a strong tendency to help democracy work by providing an institutional environment in which religious communities can use all of their democratic potential to contribute to the society.

Research design

Rather than focusing on Orthodox Christian political theology, this paper offers an institutional argument for explaining why there is no 'twin toleration' in Serbia and Montenegro, and why the possible implementation of such a church-state arrangement is good for democracy. Such an approach situates this research in the area of institutional comparative politics, which argues that institutions matter when it comes to religion and democracy, and particularly to the question of the consolidation of democracy.

In terms of theoretical rationale, I offer answers on two main research questions. First – why does 'twin toleration' matter for democratic consolidation? And, more importantly, I focus on the question – Is Orthodox Christianity an obstacle to democracy in the first place? Based on content analysis of the most recent and relevant literature in the field, I highlight major contestation points and disputes in this field.

In the second part of this paper, I analyse church-state relations in post-Milošević Serbia, as well as in post-2006 Montenegro. I decided to narrow my analysis to this time frame

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155 S.Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991).

156 See more about this in: P. Norris and R. Inglehart, *Sacred and Secular: Religion and Politics Worldwide*, 2nd Edition, Cambridge University Press, 2011, particularly 'A Religious Revival in Post-Communist Europe', pp. 111–132; G. Evans and K. Northmore-Ball, 'The Limits of Secularization? The Resurgence of Orthodoxy in Post-Soviet Russia', *Journal for the Scientific Study of Religion*, Vol. 51, No. 4, 2012, pp. 795–808; and A. Sarkissian, 'Religious Reestablishment in Post-Communist Polities', *Journal of Church and State*, Vol. 51, No.3, 2010, 472–501.

157 I have dealt with this issue in my dissertation, "The Role of Orthodox Christian Churches in the Democratization processes in Greece, Serbia and Russia", doctoral dissertation, University of Belgrade – Faculty of Political Sciences, Serbia, 2018.

for several reasons. First of all, post-Milošević Serbia represented a relatively stable democratic society in which one religious actor, namely the Serbian Orthodox Church (SOC), dominated the religious sphere. On the other hand, since 21 May 2006, Montenegro has been an independent state working on its democratic capacities. However, I argue that the incapability of the state to successfully manage its complex and specific religious structure is one of the major deficiencies of its political system. In order to map specific church–state relations in Serbia and Montenegro I will use qualitative descriptive methods, mostly content analysis, by offering insights on how each country institutionally manages its church–state relations. Therefore, I focus on constitutional provisions and other legislation which deal with religion and religious issues.

In the final section of this paper, I will try to explain why there is no ‘twin toleration’ in Serbia and Montenegro, and more importantly, what we can do about it.

Institutions matter: theoretical rationale

One of the fundamental debates in the field of religion and politics is the relationship between religion and democracy. According to Alfred Stepan, this debate can be encapsulated by the following question: ‘Are all, or only some, of the world’s religious systems politically compatible with democracy?’¹⁵⁸ The vast body literature in the field tries to provide answers on this question. However, it seems that the answer is more complicated than it was expected to be. When it comes to Christianity and its three major branches, Peter Berger argued that, ‘In the cases of Catholicism and Protestantism, the answer is pretty definitely yes. In the case of Orthodoxy, it is maybe. On the whole, this is a far from depressive picture’.¹⁵⁹ On the other hand, religious traditions such as Islam or Confucianism have been seen as major obstacles for democracy.

The relationship between Orthodox Christianity (Orthodoxy hereafter) and democracy is rather complex. For a long time, scholars have claimed that there is a clear link between Orthodoxy and authoritarianism. For example, Arnold Toynbee argued that, ‘Like communism, Eastern Orthodox Christianity is authoritarian’.¹⁶⁰ Mostly based on Toynbee’s work, as well as on Max Weber’s 1922 work *Economy and Society*, Samuel P. Huntington wrote in his seminal, and notorious, work on the ‘clash of civilizations’ that Orthodoxy is ‘much less likely to develop stable democratic political systems’.¹⁶¹ Therefore, it is logical to ask the following question: is Orthodox Christianity an obstacle for democracy in the first place? There is no straight and simple answer to this question. I would say that Orthodoxy, just like any other religious tradition, is politically ambivalent, or multi-vocal.

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158 A. Stepan, ‘Religion, Democracy, and the ‘Twin Toleration’, *Journal of Democracy*, Vol. 11, No. 4, 2000, p. 37.

159 P. Berger, ‘The Global Picture’, *Journal of Democracy*, Vol. 15, No. 2, 2004, p. 80.

160 R.L. Gage (ed.), *Choose Life, A Dialogue: Arnold Toynbee and Daisaku Ikeda*, (I.B. Tauris, New York, 2007), p. 117.

161 S. Huntington, *Clash of Civilizations and Remaking of the World Order* (Simon & Shuster, 1996); Here quoted from, C. March, ‘Orthodox Christianity, Civil Society, and Russian Democracy’, *Demokratizatsiya*, Vol. 13, No. 3, 2005, p. 450; On incompatibility between Orthodoxy and democracy, as well as modernity, see for example: V. Clark, *Why Angels Fall: A Journey Through Orthodox Europe from Byzantium to Kosovo* (St. Martin’s Press, New York, 2000); D. Clendenin, *Eastern Orthodox Christianity: A Western Perspective* (Grand Rapids, Michigan, 1994).

This answer is based on research by Daniel Philpott and Alfred Stepan, among others, who say that all religions have a significant political potential. The real question then is not if Orthodoxy is compatible with democracy, but rather how we can use such religious political ambivalence? In his influential work, Philpott argues that any religious actor can be involved in different acts, such as political violence or democratisation. According to him, there are two major mechanisms which can help us explain the political actions of religious actors: political theology (ideas) and differentiation (the institutional relationship between a religious actor and the state).¹⁶² A similar argument has been put forward by Alfred Stepan, who argues that a person dealing with the issue of religion and democracy should take care of several misinterpretations, including ‘doctrinal misinterpretation’.¹⁶³ This misinterpretation lies in assumptions of ‘univocality’, claiming that ‘any religion’s doctrine is univocally pro-democratic or anti-democratic’.¹⁶⁴ This is simply wrong due to the fact that all religions are actually multi-vocal, which means that all have the potential to support both democratic and anti-democratic systems (or in other words, religions are politically ambivalent, as Philpott suggested). This particular framework applies to Orthodoxy too, as Elizabeth Prodromou has argued. She claims that, ‘there is ample empirical evidence to suggest that Orthodox Christianity and democracy are generally compatible, in theory as well as in practice. Yet there is no denying that Orthodox churches often display a certain ambivalence about key elements of the pluralism that characterises democratic regimes’.¹⁶⁵

Now on to the next question: why does ‘twin toleration’ matter for democracy, and particularly for democratic consolidation? Stepan explains twin toleration as ‘the minimal boundaries of freedom of action that must somehow be crafted for political institutions vis-a-vis religious authorities, and for religious individuals and groups vis-a-vis political institutions’.¹⁶⁶ It is of crucial importance for democracy to impose such institutional arrangements due to the fact that, according to Stepan:

Democratic institutions must be free, within the bounds of the constitution and human rights, to generate policies. Religious institutions should not have constitutionally privileged prerogatives that allow them to mandate public policy to democratically elected governments. At the same time, individuals and religious communities, consistent with our institutional definition of democracy, must have complete freedom to worship privately. In addition, as individuals and groups, they must be able to advance their values publicly in civil society and to sponsor organizations and movements in political society, as long as their actions do not impinge negatively on the liberties of other citizens or violate democracy and the law’.¹⁶⁷

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162 See more: D. Philpott, ‘Explaining the Political Ambivalence of Religion’, *American Political Science Review*, Vol. 101, No. 3, 2007, pp. 505–525.

163 See more: A. Stepan, *Religion, Democracy, and the ‘Twin Toleration’*, pp. 40–46.

164 *Ibid.*, p. 44.

165 E. Prodromou, ‘The Ambivalent Orthodox’, *Journal of Democracy*, Vol. 15, No. 2, 2004, p. 62.

166 A. Stepan, *Religion, Democracy, and the ‘Twin Toleration’*, p. 37.

167 *Ibid.*, pp. 39–40.

Moreover, he argues that all the world's major religions are involved in a 'struggle over twin toleration'.¹⁶⁸ In his further studies he developed this concept, particularly focusing on the cases of Senegal and Tunisia. When it comes to Senegal, Stepan argued that the secular fundamentalist vs. religious fundamentalist conflict in this country has lessened, due to the fact that 'twin toleration emerged as the dominant discourse and practice'.¹⁶⁹ When it comes to the particular case of Tunisia and its democratisation in 2011, Stepan argued that its successful democratisation has been related to the 'adhering to a relationship between religion and politics that follows the pattern of what I have called in these pages and elsewhere the twin tolerations'.¹⁷⁰

Church–state relations in Serbia and Montenegro: a descriptive approach

This part of my study provides a brief descriptive look into church-state relations in both post-Milošević Serbia and post-2006 Montenegro. Although one can argue about it, in this paper I refer to both post-Milošević Serbia and post-2006 Montenegro as societies which are still in the process of democratic consolidation.

After the breakup of Yugoslavia in the early 1990s, Serbia was been ruled by the authoritarian regime of Slobodan Milošević. The subsequent democratisation process in Serbia, in which the dominant religious community (SOC) had an important role, ended successfully in 2000.¹⁷¹ However, in the immediate aftermath of 2000 Serbian political elites missed the opportunity to impose a twin toleration concept. Even though Serbia has been declared as a secular country where all religions are treated equally and where no religion will be declared as state's religion (Article 11, 2006),¹⁷² it is obvious that a dominant religious actor in Serbia, namely the SOC, has been a significant political actor too, influencing different aspects of social and political life of post-Milošević Serbia. While the current Serbian constitution provided a general framework for religion and religious communities – including the above-mentioned secular nature of the state, granting that all churches and religious communities are equal and separated from the state (Article 44), freedom of religion (Article 43), and the ban on religious discrimination (Article 21)¹⁷³ – Veković argued that this specific area needed a deeper and more insightful legal regulation, due to several reasons, including but not limited to 'complexity of religious mosaic in Serbia, issue of returning of the expropriated property by the former communist regime, State's support for clergy's pension insurance, and the introduction of the religious education in Serbian

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168 Ibid, p. 54.

169 A. Stepan, 'Rituals of Respect: Sufis and Secularists in Senegal in Comparative Perspective', *Comparative Politics*, Vol. 44, No. 4, 2012, p. 380.

170 A. Stepan, 'Tunisia's Transition and the Twin Toleration', *Journal of Democracy*, Vol. 23, No. 2, 2012, p. 89.

171 The role of SOC in the democratisation process in Serbia was a chapter of my dissertation, titled 'The Role of Orthodox Christian Churches in the Democratization processes in Greece, Serbia and Russia', doctoral dissertation, University of Belgrade – Faculty of Political Sciences, Serbia, 2018.

172 Ustav Republike Srbije, Article 11, *Službeni glasnik Republike Srbije*, br. 98, 2006.

173 Ibid.

school system'.¹⁷⁴ That is why the new 'Law of Churches and Religious Communities' (2006) has been introduced.¹⁷⁵ Although there is a strong argument for regulating the religious life of a country with a specific law, in this case several shortcomings have emerged.¹⁷⁶ In short, another great opportunity has been missed for implementing 'twin toleration' in Serbian legislation.

In the case of Montenegro, the situation is similar and yet different. After the 21 May 2006 referendum, Montenegro has become an independent state. From that moment, all the former Yugoslav republics had become independent states. Just like Serbia, Montenegro is also a secular country. This fact has been confirmed in the Constitution of Montenegro of 2007, Article 14 of which states, 'Religious communities shall be separated from the state. Religious communities shall be equal and free in the exercise of religious rites and religious affairs'.¹⁷⁷ Freedom of religion is guaranteed under Article 46 of the Constitution. In the case of Montenegro, it is particularly important to mention the draft law on religious communities, which is supported by the political elite. The most important critiques of this law are based in how it regulates the property of religious communities. Moreover, according to Article 52 of the draft, all religious buildings built before 1 December 1918 which it can be confirmed were built using state funding or support, becomes state property. This fact will, of course, directly influence the major religious communities in Montenegro, and particularly the SOC which is one of the wealthiest institutions in Montenegro. Support amongst religious communities for the draft law, has only come from the Jewish community and the Montenegrin Orthodox Church.¹⁷⁸

Towards an explanation: why there is no 'twin toleration' in Serbia or Montenegro?

There are, at least, six approaches for explaining why there is no twin toleration in Serbia or Montenegro. These are: history, stateness, religious structure, identity, (geo)politics and symphonia. We will briefly discuss each of them in the following section.

When it comes to history, it is important to note the long-term historical role played by Orthodox Christianity in both Serbia and Montenegro. Shortly after the foundation of the medieval Kingdom of Serbia in the thirteenth century Serbian Orthodox Church achieved autocephaly. Since then the religious life of many Serbs has been regulated by the SOC,

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174 M. Veković, *Uloga pravoslavnih crkava u procesima demokratizacije u Grčkoj, Srbiji i Rusiji*, doktorska disertacija, Fakultet političkih nauka Univerziteta u Beogradu (Beograd, 2018), p. 215.

175 Detailed analysis can be found in: M. Radulović, *Zakon o crkvama i verskim zajednicama*, Službeni glasnik (Beograd, 2006).

176 It is important to mention that several organisations asked for delay in accepting this law, including the Council of Europe, as well as several Serbian NGOs and political parties. More detailed analysis of this process can be found in: M. Vukomanović, 'The Serbian Orthodox Church as a Political Actor in the Aftermath of October 5, 2000', *Politics and Religion*, Vol. 1, No. 2, 2008, pp. 237–269.

177 "Ustav Crne Gore", *Službeni list Crne Gore*, Br. 1/2007, and 38/2013.

178 M. Vekovic and M. Jevtic, 'Render unto Caesar: explaining the political dimension of the autocephaly demands in Ukraine and Montenegro', *Journal of Church and State*, published online 29 April 2019, <https://doi.org/10.1093/jcs/csz025>

and as a consequence the SOC has become more than a religious actor, and an important historical, cultural and above all political actor in both Serbia and Montenegro. The political potential of the SOC, along with its specific form of church-state relations in the 21st century draws from way back in history. In addition to the historical argument is the 'stateness' problem. Stateness refers to a situation when 'a significant proportion of the population does not accept the boundaries of the state (whether constituted democratically or not) as a legitimate political unit to which they owe obedience'.¹⁷⁹ I use to this term to explain the significant political role of SOC today in both Serbia and Montenegro. When the Serbian state ceased to exist during after the Ottoman conquest, the idea of the restoration of the state survived in the institution of the Serbian Orthodox Church. Some authors even emphasise the fact that the SOC represented the state itself during the long period of Ottoman rule. Once the Serbian state had been restored, the relationship between the state and the church was very close, and historically, the SOC has held various privileges as a result.

On the other hand, the religious structure of both Serbia and Montenegro seem to represent a problem for twin tolerations. Orthodoxy is the dominant religion in both Serbia and Montenegro (Serbia – 85%; Montenegro – 72,1%).¹⁸⁰ Due to that fact, the SOC does not regard its political interests as equal with those of other religious communities, but rather it seeks from the state to recognise its dominant role via state regulation. However, in the case of Montenegro things are quite different, as the state supports the non-canonical Montenegrin Orthodox Church.¹⁸¹ Although this religious community has a smaller number of believers, it is important to mention in terms of state's relationship with the SOC.

Besides this, the identity of people in Serbia and Montenegro has been deeply rooted in religion, and particularly Orthodoxy. According to various sources and research, there is a strong correlation between national identity and religious affiliation. This fact has been highlighted in Serbia. The consequences of such a situation makes the SOC an important political actor, which has its own political interests and motivations, while individuals tend to shape their political view and values according to their religious affiliation. Therefore, the state tends to have closer and friendly relationship with the SOC, particularly in Serbia, in order to achieve its political goals and objectives.

The Western Balkans region has always been subject to geopolitics, and the political interests of world's powers. In the case of Serbia and Montenegro, one of the key foreign actors is Russia. It is well known that the Orthodox Church is used as one of the 'soft powers' of Russian foreign policy. Therefore, there are reasons to believe that the SOC is regarded as the 'extended arm' of Russian influence in both Serbia and Montenegro. On the other hand, political elites, particularly in Serbia, tend to have close relations with Russia

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179 D. McKay, 'Stateness', Federalism, and Institutional Adaptation, in: *Designing Europe: Comparative Lessons from the Federal Experience*, David McKay (ed), Oxford Scholarship online, 2001, pp. 1–7.

180 Republic of Serbia, 'Census of population, households and dwellings in 2011. Ethno-confessional and linguistic mosaic of Serbia'; and Montenegro Statistical Office, 'Census of Population, Households and Dwellings in Montenegro 2011 – Population of Montenegro by sex, type of settlement, ethnicity, religion and mother tongue per municipalities', pp. 14–15

181 See more: M. Vekovic and M. Jevtic, 'Render unto Caesar: explaining the political dimension of the autocephaly demands in Ukraine and Montenegro', *Journal of Church and State*, 2019, forthcoming.

and the Russian Orthodox Church. This is why it is not simple for the state to introduce a institutional arrangement with the church on the base of twin toleration.

And last but not least, there is an ideal type of church–state relations nurtured in the Orthodox Christian political theology, namely symphonia. This represents a specific institutional arrangement, which dates back to the Byzantine era, in which neither church or state is held to be dominant but complimentary.¹⁸² Is symphonia in contradiction with the twin toleration concept? This is a very interesting question, which calls for deeper analysis. In short, the answer would be ‘yes, it is but...’

What can we do about it?

I strongly believe that both Serbia and Montenegro need to use the democratic potential, which Orthodoxy possesses. In order to achieve this goal, it is my firm opinion that the twin toleration concept should be introduced in both states. It would benefit the state, with the flourishing of democratic societies, and it would benefit to the religious actors as well. Although it would not be easy to achieve this goal, it is doable. I offer a very brief description of this process.

One of the first steps is to open a public debate on the role of religion in public life, in which academics, clergyman and political elites are included. This debate should consider major issues arising around this question, but limited by the secular character of the state. The main goal of the debate should be a deeper explanation of the twin toleration concept, its comparative advantages and consequences, based on recent experiences around the globe. Orthodoxy should be given equal treatment with all other religious communities. The registration of religious communities should be regulated by the autonomous state body, and should not discriminate against any religious community. On the other hand, the state should regulate its own policy independent of the influence of religious institutions. However, when specific regulations referring to religious communities are going to be imposed, the voice of religious communities should be taken into account.

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182 A. Papanikolaou, ‘Byzantium, Orthodoxy, and Democracy’, *Journal of the American Academy of Religion*, Vol. 71, No. 1, 2003, pp. 75–98.

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