

Religion and Law in Serbia

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The monograph *Serbia* by Marko Nikolić, Vladimir Davidović, Darko Tanasković, and Mileta Radojević is part of the series *International Encyclopaedia of Laws: Religion*, published by Kluwer Law International in 2022. The international academic public is granted a comprehensive study of the legal, political, and societal status of religion and religious communities in Serbia. The authors are or were eminent scholars in the fields of religion, law, and economy. Dr. Marko Nikolić is the Assistant Director of the Administration for Cooperation with Churches and Religious Communities of the Ministry of Justice. The late Dr. Mileta Radojević was the Director of the Office for Cooperation with Churches and Religious Communities of the Government of the Republic of Serbia in 2012–2014. Prof. Dr. Darko Tanasković is the most prominent Serbian oriental philologist, a former professor of the Faculty of Philology (University of Belgrade), the former ambassador to Turkey and Azerbaijan, the Holy See, the Knights of Malta, and the former permanent representative of the Republic of Serbia to UNESCO in Paris. The late Dr. Vladimir Davidović was a Serbian jurist and Assistant Minister of Justice in Serbia.

The book consists of an introduction and eleven chapters. In the introduction, the authors present a general picture of the Serbian state structure, the political system, human rights, the territorial representation of religion in Serbia, and the historical background. Additionally, the authors address two critical social issues. First, they examine the problem of the “return” or renewal of religiosity in the 21st century. It is also a current debate in the social sciences. On the one hand, some authors claim that we witness an increase in belonging to religious denomination(s) but without religious behaviour (Veković 2024). On the other hand, some authors claim that, in Serbia, belonging to a religious community does not necessarily imply believing in church teachings (Radić 2008). However, Nikolić *et al.* (2022, 21) argue that “religious traditionalism” is present in Serbia at the beginning of the 21st century, a form of religiosity that implies respect for customs but with a small

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percentage of belief in church teachings. Second, Nikolić *et al.* (2022, 22) raise the question of the relationship between religion and nation and conclude that the citizens of Serbia are aware of the interdependence between religion and nation but also of their necessary separation. They argue that such an attitude among citizens has the potential for peace-making, democratic, and security-seeking processes in Southeast Europe. Thus, they scratched the surface of the growing field of democracy and religion, where the democratic potential of Orthodoxy is explored from the point of view of institutions (Veković 2020) and political theology (Papanikolaou 2012; Prodromou 2004).

The first chapter deals with the historical development of the constitutional position of religion, starting with the constitution of the Kingdom of Serbia in 1903 when the Eastern Orthodox faith became the established religion. The authors emphasise the critical events in the constitutional history of Serbia, such as the introduction of freedom of religion in 1921, the strict separation of church and state in 1946, the right to religious education in 1992, and a solid commitment to non-discrimination in the current constitution of the Republic of Serbia from 2006. In the same chapter, the authors present the following legislation: the Law on Churches and Religious Communities (2006), the Law on Restitution of Property to Churches and Religious Communities (2006), the Law on Prohibition of Discrimination (2009), the Law on Ministries (2014/ 2015/2017), and the Criminal Code (2019). After a comparative analysis with the systems of neighbouring countries, the authors conclude that the Serbian system has a “mild, liberal, and simple character” (Nikolić *et al.*, 2022, 54).

The second chapter is dedicated to the legal framework regarding religious freedom. The authors investigate three types of religious freedom: individual, collective, and organisational. Within the part of individual religious freedom, the authors specifically analyse the introduction of religious service in the Serbian Army since 2012 (military priests, military chaplains, military imams, and military rabbis) and the religious rights of national minorities.

The third chapter deals with the legal status of religious communities. The Law on Churches and Religious Communities distinguishes between three categories of religious communities: traditional churches and religious communities (Serbian Orthodox Church, Roman Catholic Church, Slovak Evangelical Church, Reformed Christian Church, Evangelical Christian Church, Islamic Community, Jewish Community, and since 2009 the Diocese of the Romanian Orthodox Church ‘Dacia Felix’ with its seat in Deti (Romania) and administration in Vršac), confessional communities (numerous Protestant churches registered based on the law in Yugoslavia in 1977), and other religious organisations.

The topic of the fourth chapter is international, transnational, and regional effects on religious communities. Specifically, the authors provided an overview of the application of international treaties and conventions in the Serbian legal system, the transnational laws' effects on religious communities in Serbia, and the effects of regional laws, primarily those of the European Union and the Council of Europe.

In the fifth chapter, the authors tackled the relationship between religion and politics in Serbia. In the section on the influence of religion on politics, the authors consider the religious roots of European values and Serbian statehood and culture, as well as the experience of the Serbian Orthodox Church (SOC) during the wars of the 1990s in Kosovo and Metohija, in Montenegro and North Macedonia. The authors show the influence of politics on religion using the example of the persecution of the SOC during the Socialist Federal Republic of Yugoslavia and in Kosovo and Metohija. Finally, the interaction between religion and the state at the political and legal level is what the authors call "cooperative separation" (Nikolić et al., 2022, 116).

The sixth chapter is devoted to labour law within religious communities. The authors pay special attention to legislation regarding health care, health insurance, and payment of contributions for pension and disability insurance (PIO) for priests and religious officials, as well as the legal work status of religious teachers.

In the seventh chapter, the authors show how traditional religious communities in their legislature dealt with human rights and individual freedoms, the right to marry (family), freedom of expression, professional secrecy, medical deontology, prohibition of discrimination, and criminal law. They concluded that, in terms of human rights and individual freedom, the internal regulation of religious communities and the state regulation have certain discrepancies and that there is room for improvement. At the same time, there is synergy and agreement on other issues.

The eighth chapter is dedicated to church financing. It discusses the legal bases and practices of direct and indirect financing, with particular emphasis on the issues of independent acquisition of property, restitution of property confiscated during the Holocaust and the socialist regime, and state financial aid to religious communities "based on the *principle of equality* and *positive discrimination* of 'minority' communities" (Nikolić et al., 2022, 146).

The ninth chapter deals with religious education. The authors conclude that during two decades, religious teaching in public schools contributed greatly "to the preservation and development of the *religious, historical, national, and cultural identity* of the Serbian people and all national minorities in Serbia" (Nikolić et al., 2022, 162). The chapter also discusses the legal basis for confessional school institutions (secondary schools and faculties) in Serbia.

The tenth chapter is devoted to matrimonial and family law, i.e., the legal position of religious marriage. Since 1946, in Serbia, only civil marriages are valid and not ecclesiastical ones, so both types of marriages are often concluded. In this chapter, the relationship between civil and church law on marriage (from the perspective of the SOC) is explained in detail.

In the eleventh chapter, the authors discuss the relationship between religion and culture, with particular attention to the cultural heritage of religious communities and the cooperation of the Republic of Serbia with UNESCO. In this regard, the relationship between religion and art is inseparable; therefore, the authors analyse the legal position of the Visoki Dečani monastery and the White Angel fresco in the Mileševa monastery. In addition, the authors discuss the legal position of religious media and religious programmes in conventional media. A particular problem in this case is the lack of professional and experienced staff. Finally, the chapter is supplemented with the participation of religious communities in civil society and public debates, a legacy of the 21st century.

This monograph provides a scientific contribution with a systematic and significant review of the legal framework and the problematization of the socio-political position of religion and religious communities in Serbia. However, due to its encyclopaedic character, it is intended for a broad audience. Hence, its social contribution is to familiarise the world public with the state of religion in Serbia and to overcome stigmas from the past that label the Serbian state as unfavourable for the lives of minorities, but also to introduce the world public to the claimant problem of Serbian religious heritage in Kosovo and Metohija. Thus, this book provides a detailed insight into the liberal nature of the Serbian legal framework on religion and the alignment of current legislation with international and European acquis.

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