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Kosovo in the Constitution of 1974

1974 Anayasası'nda Kosova

Abstract:

In early 1945, the Yugoslav partisan brigades managed to establish military control over Kosovo. The violent suppression of Albanian resistance was followed by establishment of the Yugoslav administration in Kosovo. The status of an autonomous region within Serbia and the Yugoslav Federation was given to Kosovo. Kosovo's autonomy was very limited, it only had the right to make decisions and not to promulgate any law or further. Albanians did not have the right to use their native language and national symbols, even though they made up about 70% of the population in Kosovo. Such a situation lasted until 1966 when the concept of state decentralization prevailed in Yugoslavia. In new circumstances, the Albanians became a factor of political balance in the Yugoslav federation. Taking advantage of circumstances, Albanians managed to improve their legal status, which was crown with the Constitution of 1974. This Constitution gave full rights to self-government in Kosovo and even features of statehood. Therefore, the article "Kosovo in the Constitution of 1974" aims to identify and analyse some constitutional aspects, Kosovo's relations with the republic and federation, particularly as the overthrow of Kosovo's autonomy was the prelude to the bloody wars towards the dissolution of Yugoslavia.

Keywords: Autonomy, Constitution, Kosovo, Yugoslavia, etc.

Öz

1945'in başlarında, Yugoslav partizan tugayları Kosova üzerinde askeri kontrol kurmayı başardı. Yugoslav yönetiminin kurulması ile Arnavut direnişini şiddetle bastırılmasını gerçekleştirdi. Kosova, Sırbistan ve Yugoslav Federasyonun içinde özerk bir bölge statüsüne sahipti. Kosova'nın özerkliği çok sınırlıydı, sadece karar verme hakkı vardı. Arnavutlar, Kosova nüfusunun yaklaşık %70'ini oluşturmalarına rağmen dili ve ulusal sembolleri kullanma hakkına sahip değillerdi. Böyle bir durum,

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Yugoslavya devletin desantralizasyon kavramını kazandığı 1966 yılına kadar sürdü. Yeni koşullarda Arnavutlar Yugoslav federasyonunda siyasi denge faktöründe dönüştürüldü. Bu dönemin koşullarından faydalanarak, Arnavutlar yasal statülerini önemli ölçüde iyileştirmeyi başardı, 1974 Anayasası ile taçlandırıldı. Bu Anayasa, Kosova'ya özyönetim için tam haklar ve hatta devlet özellikleri verdi. Bu nedenle, "1974 Anayasası'nda Kosova" çalışması, Yugoslavya'nın dağılması için kanlı savaşların bir faktörü olarak Kosova'nın özerkliğinin yıkılmasının ışığında, özellikle Kosova'nın federasyonla ilişkileri olmak üzere bazı anayasal yönleri tanımlamayı ve analiz etmeyi amaçlamaktadır.

Anahtar Kelimeler: özerklik, anayasa, Kosova, Yugoslavya, vb.

Introduction

During the mid-1960s Yugoslavia challenged a deep political crisis embracing the rivalry between the concept of centralization and decentralization. The fate of such a confrontation was sealed at the IV meeting of the Central Committee of the Communist League of Yugoslavia, held in Brione in July 1966. The fall of the concept of centralization, together with Aleksandar Rankovic, who headed the State security service, was followed by the reorganization of the Communist Party and that of social and political life in general.¹

In the new circumstances, the Albanians in Kosovo gained an important role in creating the political balance in the Yugoslav Federation. Albanians, as a buffer against Serbian nationalism, were promised equal rights in all areas of political, social and economic life. Albanians did not hesitate to take advantage of the circumstances created to free themselves from the pressure of Serbian nationalism, so over time they firmly put forward demands for national rights in the field of education, culture and the use of the national flag. The constitutional amendments of 1967-1972, although regulating the new relations between the Federation and its units, in addition to increasing the functions of the republics and provinces, had encountered difficulties in their implementation. As the problems that arose could not be overcome without further elaboration of the existing legislation, a Commission at the federal level was established, which in April 1973 presented the draft constitution of the Socialist Federative Republic (SFR) of Yugoslavia.²

The adoption of the Constitution was followed by a public debate throughout Yugoslavia. Provisions that provided for further decentralization caused dissatisfaction among the Serbian Communist Party and nationalist circles, who interpreted these changes as endangering Serbian interests. In a discussion held at the Faculty of Law in Belgrade, it was concluded that the confederation of Yugoslavia meant the complete dismemberment of the Serb people, as Serbs would live in four or five republics.³

1 Bilandžić Dušan, *Historija Socijalističke Federativne Republike Jugoslavije, Glavni Procesi 1918-1985* (Zagreb: Školska knjiga, 1985), 329.

2 Lalaj Ana, *Kosova Rruga e gjatë drejt vetëvendosjes* (Tiranë: Mësonjëtorja e parë, 2000), 223.

3 Biserko Sonja, "Srpska elita i realizacija srpskog nacionalnog programa" (Ćosićev Rat, Sarajevo: Zbornik radova sa naučne i stručne rasprave o knjizi "Bosanski Rat," 2013), f. 96.

Following a public debate over the draft constitution, on 21 February 1974, the new Constitution of the Socialist Federal Republic of Yugoslavia was adopted. A few days later each republican and provincial assembly adopted its own constitution. The Constitution of Kosovo was adopted on February 28, 1974. It was the first Constitution of the Socialist Autonomous Province (SAP) of Kosovo.⁴

The Yugoslav Constitution of 1974 laid the foundations of a deeper decentralization and increased the legislative powers of the Yugoslav constituent units. Although self-governing power was based on the working class, working masses and free and equal citizens, the inhabitants had to exercise their rights within the republic or autonomous province where they lived, and the common interests were realized within the Federation, or even Republic in the case of Kosovo because the SAP of Kosovo was in a double hierarchical relationship. It was a constitutive element of the Federation but also an autonomous unit within the Socialist Republic (SR) of Serbia.⁵ Common interests were achieved through federal bodies with the equal participation and responsibility of each republic and autonomous province in the implementation of federal policies, but decisions were taken by a consensus.⁶

This meant that the SAP of Kosovo had advanced in terms of its legal status, being a constituent part of the Federation. However, although broad self-government of the constituent units was envisaged, the Federation reserved the right to implement policies related to the preservation of independence, sovereignty and territorial integrity, the implementation of foreign policy, monetary policy, defence policy and state security, control of foreign trade, air traffic, settlement of legal disputes between the republics or provinces themselves, and of all other matters of common interest in the SFR of Yugoslavia.⁷

The Federal Assembly was the highest legislative body and consisted of two chambers: the Federal Chamber and the Chamber of Republics and Provinces. The Federal Chamber consisted of delegates representing the communities and socio-political organizations of the republics and provinces. It was represented by 30 delegates from each republic, and by 20 delegates from each province. The Chamber of Republics and Provinces consisted of delegations representing the positions of the respective assemblies. The Republican delegations numbered 12 members, while the provincial delegations had 8 members.⁸

Although the fact that the Constitution proclaimed the equality of its constituent units, it was seen that there was a differentiation between republics and provinces, which was reflected through the level of representation in the Federation. But, there were also provisions that in cases when the agenda included laws concerning the special interests of a republic or province, or nation and nationality, at the request of the delegates, a special procedure was conducted by the regulation of the work of the Assembly, to handle more carefully the requests submitted. Such a regulation applied only to the Chamber of

4 *Historia e Popullit Shqiptar*, vol. IV (Tiranë: Akademia e Shkencave e Shqipërisë, 2008), 352.

5 "Vendim mbi shpalljen e Kushtetutës së Krainës Socialiste të Kosovës" (Gazeta Zyrtare e Kosovës, No 1974), 55.

6 "Ustav Socijalističke Federativne Republike Jugoslavije," 1974, 87.

7 "Ustav Socijalističke Federativne Republike Jugoslavije.", 104-107.

8 "Ustav Socijalističke Federativne Republike Jugoslavije.", 105-110.

Republics and Provinces, where delegations from the respective republican and provincial assemblies were represented and where decisions were taken only by consensus.⁹ Based on those principles, the delegation of the SAP of Kosovo had the opportunity to submit special requests related to the province and the mandate of this chamber, which included, among other, issues related to the: financial, monetary, foreign trade policy, customs, price control, despite the Federal Chamber that controlled the implementation of the Constitution, foreign and domestic policy, ratification of international agreements, etc.¹⁰

Unlike the representation in the Federal Assembly, the SAP of Kosovo was equally represented with other federal entities in the Presidency of the SFR of Yugoslavia. The Assembly of the SAP of Kosovo elected a member of the Presidency of the SFRY, the same as the other republics and the SAP of Vojvodina. The Federal Executive Council (federal government) had equal representation between the republics and proportional representation for the provinces. The same principle of representation applied to the Federal Court, while the Constitutional Court consisted of a president and 12 members, 2 from each republic and 1 from each province.¹¹

From a federal point of view, the 1974 Constitution required the consensus of republics and autonomous provinces when making decisions at the federal level. The Constitution could be amended by the Federal Assembly only with the consent of all the republics and autonomous provinces.

On February 27, 1974, the Assembly of the SAP of Kosovo promulgated the Constitution of the Province. The Socialist Autonomous Province of Kosovo was defined as a social, political and self-governing community of the working people and its citizens, where the ethnic and political rights of all nations and nationalities living in its territory were respected. It was defined as a legal-political connection with the RS of Serbia and the SFR of Yugoslavia.¹²

Although according to the 1974 Constitution Kosovo was included within the borders of Serbia, it constituted a constitutional element of the Federation, same as other republics, due to its special autonomy. Kosovo functioned entirely as part of the Yugoslav Federation, as it had its Assembly, courts, central bank, police, territorial defence, etc.¹³ A clearer picture regarding the degree of autonomy that the SAP of Kosovo had achieved with the Constitution of 1974 can be explained only if we evaluate its functions in terms of executive, judicial, financial, educational and cultural issues.

The SAP of Kosovo had the right to execute laws and other acts adopted by the Assembly of the Province and by the Federation or the Republic, under the law and constitution. In terms of judicial organization, in addition to the regular courts and the prosecution, the judicial system of Kosovo also included the Supreme Court and the Constitutional Court, charged with assessing the constitutionality and legality of its entire territory. The SAP of

9 "Ustav Socijalističke Federativne Republike Jugoslavije.", 110.

10 "Ustav Socijalističke Federativne Republike Jugoslavije.", 106-110.

11 "Ustav Socijalističke Federativne Republike Jugoslavije.", 119, 127, 137.

12 "Vendim mbi shpalljen e Kushtetutës së Krahinës Socialiste të Kosovës.", 85.

13 Basha Keçmezi Sabile, *Kosova 1945-1990* (Prishtinë: Instituti i Historisë, 2017), 211-212.

Kosovo also had a territorial defence system. It was the duty of the Province in its territory, under the Yugoslav's popular defence system, to organize and lead the territorial defence, the civil defence and to organize the resistance in case of an attack on the country. But, at the same time, the territorial defence of the SAP of Kosovo was part of the general popular defence and part of the armed forces of the SFR of Yugoslavia.¹⁴

Similarly to the popular defence, the same links between the SAP of Kosovo and the Federation existed in the area of finance and foreign policy. Under the unique Yugoslav monetary system, the National Bank of Kosovo, following the Constitution and the law, within the common issue policy, determined the conditions and manner of using the funds in the Province and takes the necessary measures to implement the credit policy of the province. In the field of foreign relations, under the general orientations of Yugoslav foreign policy, the SAP of Kosovo had the right to establish cooperative relations with organizations of other states or with international organizations. Furthermore, the SAP was involved in defining and implementing Yugoslav foreign policy. It gave its consent to the conclusion of international treaties especially on matters relating to the province.¹⁵

The activity of the SAP of Kosovo in the field of foreign policy has influenced its affirmation in relations with foreign countries and the strengthening of cooperation, especially in the field of education, science, culture and technology. Kosovo's educational, cultural and scientific institutions entered into direct relations with their counterparts in other countries. Cooperation with Albania occupies an important place in this area.¹⁶

The language in which the Assembly conducted its work and issued and published laws was Albanian and Serbo-Croatian. The Constitution of the SAP of Kosovo emphasized the equality of the Albanian language with the Serbo-Croatian language in written form, while public organizations and institutions were obliged to follow such a principle. Moreover, the Constitution allowed for the equality of the Turkish language in areas where this minority was predominant in terms of population.¹⁷

In addition to the Provincial Assembly, Kosovo had its own Presidency of nine members, as well as other units in the Yugoslav federation. It had its Executive Council or Government with respective departments, it had its Supreme and the Constitutional Court, the customs system, the foreign relations system, etc.¹⁸

Although it did not meet the aspirations of the Albanian people for equality with other peoples of Yugoslavia, nevertheless it opened a window for further emancipation of Albanians not only in the political field but also in the economic, social, cultural and educational.

The 1974 constitution was a great achievement for Albanians. In addition to being an equal subject and a constitutive element of the Federation, the Constitution of 1974

14 "Vendim mbi shpalljen e Kushtetutës së Krahinës Socialiste të Kosovës.", 82-85.

15 "Vendim mbi shpalljen e Kushtetutës së Krahinës Socialiste të Kosovës.", 90.

16 *Historia e Popullit Shqiptar*. 253.

17 "Vendim Mbi Shpalljen e Kushtetutës Së Krahinës Socialiste Të Kosovës.", 81.

18 Basha Keçmezi Sabile, *Kosova 1945-1990*, 216.

attributed to the SAP of Kosovo following features:

- (1) The right to adopt its Constitution and the right to amend it;
- (2) The right to decide on its boundaries;
- (3) The right to an autonomous organization of provincial government;
- (4) The right to make decisions on the regulation of certain social issues;
- (5) The right to exercise constitutional legal functions;
- (6) Independence of the judicial system and the right of the constitutional court;
- (7) Constitutional status of Kosovo - elements of a statehood;¹⁹

But, in addition to the features mentioned above, two other elements that emphasized the status of the province in Serbia. The first element has to do with the relations between the republican and provincial bodies which were not hierarchical, but were based on cooperation (Constitution of the RS of Serbia, Article 295, point 1), while the second element has to do with the obligation of bodies of the Republic to limit their activity only within the narrow territory of the Republic (without provinces), which gave full freedom to the provincial bodies.²⁰

In other words, the legal-political connection or relationship between the Federation-Republic-Province was complex. For example, if the constitutional changes concerned the relation between the Federation and RS of Serbia and vice versa, then the consent of the provinces was not required. But, in case the “common interests” were affected, then their consent was needed. Therefore, although the Constitution of the SAP of Kosovo of 1974 stipulated that the territory of Kosovo could not be changed without the consent of the Provincial Assembly, but the consent of the Assembly of the RS of Serbia was a must.²¹

The vision this Constitution provided was early dictated by Serbian Communist Party and nationalist circles. Many Serbian party leaders observed the new Constitution not only as deepening the division of the Serbian nation, but also as weakening Serbia’s statehood as one of the Yugoslav republics. The autonomous provinces had the right to veto all matters concerning them, and thus the Belgrade leadership had lost full control over the affairs of the Serbian republic. The 1974 constitution forbade Serbia from interfering in provincial affairs against the will of the provincial assemblies in Novi Sad and Pristina.²²

Given the arguments listed above, the leadership of Serbia drafted the so-called Blue Book, which unofficially initiated the issue for the revision of the 1974 Constitution, particular that part concerning the position of Kosovo and Vojvodina. This issue was the topic of discussion in many party forums but was removed from the agenda as it was not possible to secure the consent of other republics for these changes. The issue of constitutional

19 *Kosovo: pravo i politika, Kosovo u normativnim aktima pre i posle 1974. godine* (Beograd: Helsinki odbor za ljudska prava u Srbiji, 1998), 10.

20 *Kosovo: pravo i politika, Kosovo u normativnim aktima pre i posle 1974. godine*, 12.

21 *Historia e Popullit Shqiptar*, 354.

22 Vickers Miranda, *Midis serbëve dhe shqiptarëve* (Tiranë: Toena, 2004), 219.

revision was put again on the agenda after Tito's death.²³

The situation of Albanians in Kosovo improved significantly from the 1970s, especially with the promulgation of the Kosovo Constitution, at least in matters of constitutional theory. The new Yugoslav constitution of 1974, which remained in force until the final dissolution of Yugoslavia, provided the Autonomous Province of Kosovo with equal status, in many respects, with that of the republics.

Conclusion

The 1974 Constitution marks a great achievement for Kosovo Albanians. The Socialist Autonomous Province of Kosovo enjoyed a substantial autonomy that was reflected in the organization of socio-economic-political life in the Province and the opportunity to issue and interpret laws according to the needs of its citizens. While enjoying substantial rights at the federal level, even to the point of blocking important processes in the event of disagreement, at the provincial level it enjoyed rights that went as far as that of a state feature. However, the complex links in the Federation-Republic-Province relationship did not allow the legal rights enjoyed by Kosovo to exceed the degree of autonomy. The Yugoslav Constitution of 1974, and that of the SR of Serbia of 1974, however, contained provisions such as annulling the decisions of the Assembly of the SAC of Kosovo if something more than what the Constitution offered would be proven. On the other hand, the opportunities this Constitution offered if appropriate circumstances were created, had alarmed the Serbian Communist Party and nationalist circles, which in the late seventies, and especially after Tito's death, began to insist on changing the Constitution and reducing of autonomous rights. The 1974 constitution and the self-government it provided enabled a cultural, social and economic emancipation of Albanians. Schools, institutes, factories, etc. were opened, which ensured a higher national consciousness of the Albanians in Kosovo and opportunities to submit requests for further advancement of their status.

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23 Biserko Sonja, *Kovanje antijugoslovenske zaverë*, vol. Knjiga 1 (Beograd: Helsinski odbor za ljudska prava u Srbiji, 2006), 102; Bogetić Dragan, "Nacionalno pitanje i Jugoslavija 1945-1989," *Istorija 20. Veka* No. 1-2 (1999), 19.

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