

Summary

This dissertation discusses the legal situation of Muslims in interwar Poland. It aims to analyse the historical and legal process of shaping this situation between the First and Second World Wars, with a focus on the creation of Muslim religious organisations and institutions as well as on their functioning. It investigates how certain rights derived from freedom of religion or belief were exercised by individuals belonging to Muslim faith and by their organisations.

The present work takes the reader from the identification of the relevant binding legal norms at the dawn of independence of Poland to the examination of how the Act of 21 April 1936 on the relation between the State and the Muslim Religious Union in the Republic of Poland was applied and implemented. It also provides an assessment of the application of these norms by public authorities to particular cases, taking into account the principles of equal rights and religious autonomy as applied to Muslim religious organisations and freedom of religion or belief as exercised by individuals of Muslim identity. The dissertation aims to identify and assess factors that affected the legal situation of Muslims in interwar Poland, adopting both a law-in-books and law-in-action perspective.

The first chapter depicts the historical background regarding the presence of Muslims in the Grand Duchy of Lithuania, the Polish–Lithuanian Commonwealth, and during the partitions. It also provides the reader with some necessary demographical, political, and social data concerning Muslims in the interwar period.

The second chapter discusses the legal bases for the operation of the Muslim denomination until the adoption of the Act of 21 April 1936. It starts with the exploration of relevant laws that had been enacted by the partitioning States (Russia, Prussia, and Austria). The issues of the binding character of those laws and their correct application are discussed. In the subsequent sections, the chapter examines the international and constitutional frameworks concerning the relations between the State and the church, freedom of religion or belief, and the principle of equal rights regardless of religious beliefs. There is a particular focus on the dispute between the Supreme Court and the Supreme Administrative Tribunal regarding the direct application of the constitutional provisions concerning freedom of religion or belief and the legislative measures adopted to bring the existing regulations into line with the constitutional rules by way of repeal of the discriminatory norms. The practical

outcome of that dispute for Muslim citizens is discussed as well, and the administrative practice with a doubtful legal footing is addressed.

The reality of the relations between the Polish (central and regional) authorities and the institutions of the Muslim denomination is the main subject of the third chapter. This includes the recognition of the Muslim organisations and their authorities by the Polish government, the administrative supervision over the process of filling Muslim offices, the distribution of State subsidies, and the issue of religious seals. The first period to be covered in this chapter is from 1918 to 1926, when there were no high religious authorities for the Muslim denomination in Poland. Accordingly, the chapter discusses the situation of the *de facto* independent Muslim parishes in the so-called Eastern Territories, the situation of Muslim community in Warsaw, and the efforts made by the Polish authorities and the Muslim leaders to recreate and appoint high religious authorities for the whole Muslim community in Poland. This resulted in actual autocephaly, the election of Jakub Szyrkiewicz to the office of Mufti, and the setting of Muftiat in Vilnius. The second period to be discussed, from 1926 to 1936, is between the election of the Mufti and the adoption of the Act of 21 April 1936. For this period, the chapter focuses on the influence of the high religious authorities on the general situation of Muslim parishes and the whole community, as well as on the political importance of the Muslim denomination to Polish authorities, especially in the area of foreign affairs.

The fourth chapter covers the preparatory works concerning the Act of 21 April 1936 and the final years before the Second World War (1936–1939). The first (unsuccessful) attempts to regulate by law the situation of Muslims in the early 1920s are explored. The chapter also analyses the severe personal conflict within Muslim circles and shows how the State authorities helped the Mufti suppress the internal opposition. In the same chapter, preparatory works and the legislative procedure are explored in detail. It provides the interpretation of the provisions of the Act of 1936 and the Statute of the Muslim Religious Union, which are compared with the corresponding provisions of individual acts governing the status of other religions at that time. Then the focus moves to the process of application of the Act of 1936, with the aim to explain what measures were adopted to issue the necessary executory provisions and why that process was not completed. Moreover, it is investigated in the chapter how the application of the Act affected the internal affairs and everyday functioning of the Muslim Religious Union, including the replacement of the Muslim parishes, and particularly their religious associations, by Muslim religious communities.

The last chapter addresses individual rights of Muslims in the period under study. It discusses, in particular, the issues of marriage, registry office records, Muslim troops and chaplaincy, ritual slaughter of animals, the availability of religious diet, teaching Islam at school, training of teachers and clergy, the right to establish a *waqf*, religious assistance for convicts and patients, Muslim interments and cemeteries as well as devotional items.

It is argued that the legal position of individual Muslims in the area of freedom of religion or belief in the 1920s was unfavourable, especially with regard to the right to conversion to Islam. This is mainly due to the reliance on the former Russian regulations, whose binding force was doubtful at that time, and the deference of the government to the wishes of the Catholic clergy. This situation improved gradually and can be described as quite good after 1931, owing to the derogation of all discriminatory norms from the period of the partitions and the replacement of the former regulations by new Polish legislation of general applicability. Yet, the lack of high religious authorities of the Muslim denomination until 1926 as well as their unsatisfactory performance until 1929 caused some inconveniences, and the small size of the Muslims population in interwar Poland hindered the exercise of some rights derived from freedom of religion or belief. But the situation of Muslims serving in the army was relatively good, especially if compared to the situation of Jewish soldiers.

The position of the Muslim denomination as an organisation was even more complex. The former Russian laws were still being applied in relations between the State and the Muslim denomination in the area of administrative supervision in the years 1918–1936. The public administration would recognise those regulations as kept in force, but they were often unsuitable for direct application and some of them had to be applied *per analogiam*. Moreover, the administration avoided giving any official interpretation of those regulations. This resulted in legal uncertainty and allowed the administration to interpret those regulations on an arbitrary basis, especially when the matter concerned high religious authorities of the Muslim denomination. Interestingly, the former Russian laws were not even applied uniformly because in many cases the administration would find them incompatible with the Polish constitution. This was a justified opinion, as they subjected the election of Muslim clergy and the functioning of the religious organisation to the strong supervision of the administration, which could gain control, sometimes even direct, over certain matters.

The Act of 21 April 1936 did not change much in that situation, as it preserved the structure and the mode of operation of the Muslim Religious Union, which originated from the former Russian laws, thus making the administrative supervision even more intrusive. All elections in the Union have become a farce, because the public administration had the right to

accept or reject a candidate before he was even announced and put to a vote. The Act weakened the congregations of Muslim Religious Communities, but strengthened the position of the Mufti and made him the only important figure in the Union. The government could easily influence the Mufti and interfere with the internal affairs of the Union. The organisation fully depended on public subsidies, but had no effective legal guarantees concerning their amount. Therefore, it is right to assume that the Act of 1936 was incompatible with the constitutional principles of autonomy and self-governance of churches and religious organisations. It was also incompatible with the constitutional law on the organic statute of the Silesian Voivodeship, as it interfered with its autonomy in religious matters.

Since the Mufti feared that his control over the Union would decrease after the posts in the Muslim Supreme Council have been filled, the members of the Council were not appointed for some time. Consequently, the Act of 1936 only began to be fully applied after 1938, and some of the planned executory provisions were never issued.

Overall, the legal status of the Muslim Religious Union in interwar Poland was similar to that of other religious organisations whose situation was regulated by individual legislation, particularly the Karaite Religious Union. The adoption of the law concerning Muslims responded to the needs of the Polish foreign policy and propaganda, which intended to depict Poland as an Islam-friendly State and gain influence within Muslim communities abroad. It was also a product of good personal relations between the Muslim leaders, including the Mufti, and the Polish government. But the Muslim Religious Union was granted weaker financial support and guarantees than some other churches. Another difference was the intrusive model of supervision, which can only be compared to the case of the Karaite Religious Union. But Muslim congregations were even weaker than Karaite congregations, so the final shape of provisions concerning the Muslim congregations and the Muslim Supreme Council must have been influenced by the severe internal conflict in the Muslim circles during the legislative procedure and the earlier conflicts of these congregations involving the public administration.