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Religious minorities between the Mediterranean shores: a study of the status of religious minorities in the Mediterranean Context (REMiMESO)

Final Report – September 2024



ReMiMESO
REligious MInorities between the MEditerranean Shores

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The REMiMESo project is linked to the project Atlas of Religious or Belief Minority Rights, devoted to mapping and measuring religious/belief minority rights in the European Union countries. For this reason, this report contains some references to material published on the Atlas website (<https://atlasminorityrights.eu>).

Abbreviations

In this report the following abbreviations are used:

ECtHR = European Court of Human Rights

FoRB = freedom of religion or belief

RE = religious education

RM = religious minority

RBO = religious or belief organization

The countries taken into consideration in the research are indicated with the expression REMiMESo countries.

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1. Executive Summary and Key Findings

By Ilaria Valenzi

1.1 Executive Summary

The research represents a continuation of the REminEm (“Preventing discrimination and persecution. Models of inclusion of religious minorities in the Euro-mediterranean space” and MiReDiaDe (“Inclusion of religious minorities and development of multicultural dialogue for the growth of democracy. The potentialities of the Italian model in the Mediterranean area) projects. The study compares the rights of RMs in five countries on the northern and southern shores of the Mediterranean Sea, identifying significant differences that underscore the necessity for policy and legislative reforms. In the context of ReMiMESo, it is notable that a number of countries have established legal frameworks that regulate aspects of family law, particularly those pertaining to marriage, in accordance with religion-based personal law systems. This is exemplified by the Israeli case, where recognized religions have exclusive jurisdiction over marriage and divorce due to the application of the millet institution. Nevertheless, even in instances where this is not the case, as in Tunisia, civil law is significantly influenced by Islamic law. This results in the indirect subordination of members of RMs through civil law to the rules of the majority religion. In other contexts, such as in Morocco, state law addresses matters of personal status and, in particular, family law. However, this civil law is an incorporation of Islamic law legislation. Nevertheless, the rights of RMs are not upheld, as they are effectively subject to religiously oriented legislation, with the sole exception of the Jewish RM, which enjoys a distinct status. Among the countries situated on the north shore, only Malta has adopted a concordat system, and the Roman Catholic religion is recognized by the Constitution as the state religion. In this case, the RMs have the right to enter into agreements with the State for the civil recognition of their religious marriage, but this right has only been exercised by the Catholic Church. Consequently, guaranteeing better rights to religious minorities with regard to marriage and family rights would require the conclusion of further agreements with the RMs, which currently do not exist. The case of Slovenia, however, exhibits a distinct set of peculiarities. The separatist regime in place does not provide for the civil recognition of the religious marriage of any RBO, nor does it make any provisions related to family law. This establishes a level playing field for all RBOs, ensuring that the state maintains a neutral stance towards all religions. The acquisition of legal personality for RBOs occurs through registration, though this is not a mandatory process. Registration does, however, provide the possibility of developing certain aspects of the right to religious freedom, including the ability to conclude special agreements with the state. However, these aspects do not concern personal status and marriage and family law. Consequently, in states with different

regulations between recognized and unrecognized RMs, members of the latter do not always enjoy individual rights of religious freedom, which should be guaranteed regardless of affiliation.

Furthermore, violations have been identified in school systems where religious education is provided in state schools through 'religious instruction' (the majority religion) and students belonging to the RM are unable to obtain an exemption from teaching. This is the case in Morocco and Israel, whereas in Tunisia and Malta, where religious instruction concerns the majority religion, there is the option of opting out. A review of the legislation in the countries analysed by REMiMESo that RMs are permitted to establish faith-based public schools. If this fact attempts to redress the imbalance in the rights of those RMs who are unable to opt out, as in Morocco and Israel, the issue of teaching in state schools remains. The case of Israel is particularly illustrative in this regard. The public school system itself distinguishes between Jewish and Arab public schools, with the former subdivided into secular and religious streams. Additionally, there is a separate system for Orthodox Jewish schools, which are private Bible schools but are funded by the state. Consequently, Arab schools integrate the presence of Muslim and Christian students into their curricula. In general, it can be argued that this discrepancy in religious education, if conceptualised as a multicultural response, does not facilitate a unified citizenry and perpetuates the divisions present within the country and within the majority religion.

1.2 Key Findings

a) General

1. In some countries included in the REMiMESo project, specific elements of marriage and family law are governed according to a system of personal law based on religious traditions, which aligns with the religious rights of officially recognized religious communities. In Israel, the application of the institution of the millet has resulted in the recognition of exclusive jurisdiction over marriage and divorce for the country's recognized religions, with parallel jurisdiction for all other matters pertaining to personal status. In Morocco, the family code is an application of Islamic family law and is applicable to all citizens, with the exception of Jews, who are accorded special status as native RMs. Nevertheless, even in a country such as Tunisia, which does not regulate family law through religion-based systems, Islamic tradition exerts a profound influence. In both instances, the situation is problematic for other RMs that are not recognized.
2. Among the countries analysed in the REMiMESo project, only Slovenia regulates at constitutional level the separation between the State and religious communities and the equality of religious communities, guaranteeing their freedom of activity within the principles of the State's legal system. While this is more protective of religious minorities, which are well-recognized, the total separation does not recognize the civil consequences of religious acts.
3. While the Maltese constitution enshrines the right to freedom of conscience and religion, it also stipulates that the country's official religion is Roman Catholic Apostolic. This entails a public recognition of Catholicism through the display of symbols and the use of rituals (e.g. Catholic prayer in public institutions) and the recognition of rights to spiritual assistance that are financially guaran-

teed by the state. While the state bears certain obligations in this regard, citizens are not themselves obliged to comply (e.g. exemption from school education; recognition of the right to divorce).

4. In countries where different legal regulations apply to recognized and unrecognized RMs, members of the latter do not always enjoy the individual right to FoRB that must be granted to each person regardless of religious affiliation.

b) Marriage and family

5. Unlike the MiReDiaDe countries, not all REMiMESo countries recognize civil marriage.

6. In Israel, it is not possible to celebrate a civil marriage under state law, whereas in Morocco, marriage is governed by state law, which, however, follows Islamic tradition. While in Morocco, Judaism is the only RM officially recognized by the state whose religious marriage may acquire civil effects, in Israel, Muslims and Christians may also have religious marriages recognized by the state. However, in Israel, non-Orthodox Jews may face discrimination.

7. While in Slovenia only civil marriage is recognized by the state, in Tunisia, although from a legal standpoint the only form of marriage that is legally binding is civil marriage, the interpretation of the courts is still frequently aligned with a traditional vision of the marriage bond, which is linked to Islamic law. From this perspective, the practical implementation of the reforms at the legislative level presents a significant challenge. In Malta, only religious groups that have entered into an agreement with the state are permitted to conduct religious marriages that are recognized by the state.

8. It is only in Malta, Slovenia and, since 2017, Tunisia that interreligious marriages may be celebrated. In Israel, such a union is only permitted if the husband is Muslim. In Morocco, a marriage between a Muslim man and a Christian or Jewish woman is permitted.

9. While the practice of dowry is not regulated by state law in Slovenia and has been abolished in Malta, it is a fundamental aspect of the marital contract in Morocco and Tunisia. In Israel, the state and recognized religions may both play a role in regulating the practice of dowry. Inheritance is a matter regulated by the state in Malta, Slovenia, Morocco and Tunisia; however, in these two countries, it is also influenced by Islamic law. In Israel, the matter is concurrently within the jurisdiction of both civil and religious courts.

10. In Malta and Slovenia, the legal framework governing adoption is established at the state level. In Tunisia, only married Muslims are permitted to pursue adoption or kafala; in Morocco, only kafala is available for non-Muslim women. In Israel, the religion of the adoptee and the adopting family must be the same.

c) Religious Education

11. In Malta, Israel, Morocco and Tunisia, religious instruction is provided by public schools as part of the curriculum, under the heading of teaching of religion. In Slovenia, religious education is optional as a teaching about religion and ethics.

12. In Malta, the state-sponsored curriculum exclusively encompasses the dominant religious tradition. In Tunisia, there are some general references to Christianity and Judaism. In both countries, students may opt-out from religious instruction.

13. In Morocco and Israel, the right to exemption from religious instruction is not permitted in state-run religious schools. This severely restricts the rights of RMs and is contrary to international standards in this regard.

14. In all REMiMESo countries, religious groups can open private faith-based schools. In Israel, independent religious schools of ultra-Orthodox Jews are financed by the state.

15. While school canteens in Israel are required to provide food that adheres to kosher dietary laws, the state does not mandate that schools must provide food that is permitted by the other religious beliefs of their students. In Morocco and Tunisia, the rule may be considered to be respected by the majority of the population, but not by the RMs.

16. In all REMiMESo countries, students and teachers are permitted to wear religious symbols. In Malta, Morocco and Tunisia, schools display the symbols of the religious majority. Similarly, in Israel, some religious symbols are also national symbols. In Slovenia, the display of religious symbols in educational institutions is not expressly permitted, yet it is not expressly prohibited either; as a result, it may be regarded as implicitly forbidden.

17. Israel is the only country in which religious minorities (RMs) have the right to refrain from attending or teaching in public schools on religious holidays. This right is reserved only for those RMs whose beliefs are recognized by the state.

2. Introduction

2.1 Research Question

By Ilaria Valenzi

This project is in continuity with the previous research projects ReMiNem (Preventing Discrimination and Persecution. Models of inclusion of religious minorities in the Euro-Mediterranean area) and MiReDiaDe (Inclusion of religious minorities and development of multicultural dialogue for the growth of democracy. The potential of the Italian model in the Mediterranean area), whose research results are available at <https://atlasminorityrights.eu/reminem/>.

Furthermore, REMiMESo presents a comparative analysis of the legal systems pertaining to the respect and promotion of RM rights in five countries situated along the Mediterranean shores. The aim is to facilitate a dialogue between systems from the northern and southern shores of this strategic territorial area, encompassing Israel, Malta, Morocco, Slovenia and Tunisia. The countries under examination exhibit a variety of backgrounds, encompassing differences in religious and cultural traditions, political systems, and social conditions. This has a profound impact on the treatment of minorities, particularly religious minorities, in the different countries and on their response to two essential principles that have developed over time: the right to equality and non-discrimination on the basis of one's religion and the right to be different from the majority, starting from one's own religious and cultural specificities. The promotion of these two rights is a fundamental obligation incumbent upon states. The strategies implemented by the various legal and political systems of the countries under consideration vary considerably, depending on the specific model of the relationship between the state and religion in place in each country. This includes a Catholic-Catholic system (Malta), a separatist system (Slovenia), two Muslim systems (Tunisia and Morocco), and a Jewish system (Israel). It is essential to evaluate these strategies in light of their alignment with international standards for the respect and promotion of the rights of religious minorities (RM).

The research hypothesis proposed by is based on the premise that the inclusion of religious minorities in the social, political, and cultural framework of a nation is a fundamental prerequisite for the advancement of security, social cohesion, and democratic growth. In particular, the involvement of individuals espousing disparate conceptions of life and the world through a multicultural and multi-faith dialogue facilitates the enhancement of the distinct contributions that each can make to the process of coexistence, thereby enriching it with new content.

2.2 Research Fields (Policy Areas, Countries and RMs)

By Ilaria Valenzi

The REMiMESo project compares the rights of RMs in two policy areas: marriage and family relations, and religious education in public and faith-based private schools. These policy areas were chosen because they are central to multicultural dialogue and dialogue with religious traditions. They are also particularly important for respecting and promoting the rights of RMs.

These policy areas were analysed in relation to five countries in the northern and southern Mediterranean region, taking into account the fact that they reflect the diversity of cultural and religious traditions in the region: two countries with a Muslim majority, but with two different legal and political histories (Morocco and Tunisia); one country with a Catholic majority (Malta); one country with a Catholic majority, but with a separatist system (Slovenia); and one country with a Jewish majority, whose political history is inextricably linked to the religious factor (Israel).

The analysis was carried out taking into account the presence of different RMs in the countries examined. This means that the religious geography of a country, by which we refer to the presence of religious and cultural pluralism in the areas analysed, has been reconstructed and analysed in order to understand whether or not it has an impact on the legal choices of the areas themselves. In this sense, the presence of a clear majority in most of the countries studied plays an important role. Nevertheless, in the Muslim-majority countries, Christian minorities were considered first, with a special role for the numerically larger Catholic minority (Morocco and Tunisia). For Tunisia and Morocco, a special role was also recognised for the Jewish minority. For Israel, a special role was recognised for the Islamic and Catholic presence, with some mention of the Druze minority. For Malta, more minorities were taken into account, in particular the Islamic minority, the mainline Protestant churches and the Christian Orthodox Church. For Slovenia, the number of religious minorities covered is also quite diverse (mainline Protestant churches, Orthodox churches, Islam, Jehovah's Witnesses). All these RMs represent a group of people united by a common denominational affiliation, constituting less than half of the population of a state and held together by the intention to preserve and promote their religious identity. This definition of RMs has been adopted in the Atlas and in the ReMinEm, MiReDiaDe and now REMiMESo projects, and is explained in more detail in the Methodology section of the About page of the *Atlas of religious or belief minority rights* website.

2.3 Methodology

By Ilaria Valenzi and Alessia Passarelli

REMiMESo's data and information have been collected through two sets of questionnaires concerning the rights enjoyed by RMs in the following policy areas: marriage and family, public and faith-based private schools. The first set was sent to legal experts in the countries considered in the research. Their responses provide an analytical picture of the rights enjoyed by RMs in each country.

The second set of questionnaires, oriented towards the de facto implementation of these rights, with a focus on their social perceptions, was sent to the RM representatives in the same countries. The term representative refers to a person who has a role within the religious organization - possibly at the national level - and has knowledge of the structure, its position vis-à-vis the state and the challenges it faces. Their answers give also an insight into the extent to which the members of each RM feel they are being discriminated against.

Each response was checked by the REMiMESo team to ensure that the legal experts and RM representatives correctly understood the questions and replied in a manner consistent with the responses given by the experts and representatives in the other countries. When ambiguity was found or doubts arose, the team asked the experts and representatives for additional information and, when further investigation was needed, consulted other experts.

The questionnaire directed to RMs was disseminated either through official channels (also going through the European representations of some RMs and contacting their national offices) or using contacts provided by legal experts, other religious communities and universities. Especially concerning Morocco and Israel, the team had also direct names of persons in leadership positions within their organizations - names provided by International partners so presumably able to interact and respond in English. Several attempts have been made to get in touch with all the RMs concerned by the research project and beyond. Immediately during the first email exchange with religious leaders, especially from Christian denominations, the team was told that their “jurisdiction” in the region covered both Israel and Palestine, therefore we were asked to refer to both. The responses that have been collected are shown in the table below and it is interesting to notice that in general the responses we obtained were from religious minorities not initially covered by the project (Abrahamic religions). Obtaining them has been a complex and challenging work and this may be an indication of the challenges RMs have to face when giving voice to their problems and signal the possible gap between the legal system and the actual enjoyment of rights. If collecting responses by RM has always been a challenging task, this year the research team, which participated in previous projects and the Atlas project, encountered several obstacles and gathered far less information than expected. Although it is comprehensible that the situation in Palestine and Israel shifted the priority of the religious communities in the past months, a further reflection on the impact of the conflict as well as the intention of the RM to withdraw from confrontation and dialogue with other religious communities in the entire Mediterranean area, in order not to expose themselves, deserves further investigation.

The replies to legal questionnaire (and the legal experts’ comments, when some clarifications were needed) have been collected in two tables which make it possible to compare at a glance the legal provision in force in each country. The comparative tables will be soon available on the page “policy area” of the ReMiMESo project (atlasminorityrhgts.eu).

Country	RMs who have responded to the questionnaire (in alphabetical order)	Other ROs who have been contacted through different channels
Malta	Bahá'í Faith	Jewish Communities, Muslim Communities, Lutheran Church, Church of Scotland and Methodist Church, Roman Catholic Church, Ahmadiyya.
	Hindu Communities	
	Humanists Malta	
	Romanian Orthodox Church	
Slovenia	Buddhist Communities	Jewish Communities, Lutheran Church, Evangelical Churches, Romanian Orthodox Church, Serbian Orthodox Church, Humanists.
	Muslim Communities	
Tunisia	Roman Catholic Church	Reformed Church, Evangelical Churches, Jewish Communities, Anglican Church, Russian Orthodox Church, Buddhist Organisation, Shia Islam.
Morocco		Reformed Church, Roman Catholic Church, Evangelical Church, Jewish communities, Greek Orthodox Church, Russian Orthodox Church, Sikh Organisation, Shia Islam, Humanists (Council of Ex-Muslim).
Israel/Paestine		Episcopal Church in Jerusalem and in the Middle East (Diocese of Jerusalem), Evangelical Lutheran Church in the Holy Land, Greek Orthodox Patriarchate of Jerusalem, Roman Catholic Church.

2.4 Benchmarks (International Standards)

The data obtained from the questionnaires was analysed to determine its consistency with the international standards of the Office of the High Commissioner for Human Rights (OHCHR) on the protection of religious freedom (International Standards on Freedom of Religion or Belief) and the promotion of the rights of religious minorities (Minority Rights). International standards and guidelines for implementation. Special attention was given to the historical, political, legal, cultural and religious context in which the international standards are to be applied. In this regard, an understanding of the historical and social characteristics of each country is essential for the effective implementation of international standards, ensuring that they are not perceived as external impositions, but rather as contextualised frameworks that take into account the specific nuances of each territory. From this perspective, it is also crucial to take into account those international standards that relate to the regional level in question. In the light of the above considerations, the European Convention on Human Rights, the Arab Charter on Human Rights (ACHR), the African Charter on Human and Peoples' Rights (ACHPR) and the African Charter on the Rights and Welfare of the Child (ACRWC) were considered relevant and thus subjected to analysis. The applicable international standards for each of the project's research areas are described in more detail on atlasminority-rights.eu.

3. Marriage and Family: Legal and Sociological Analysis

3.1 Introduction

By Ilaria Valenzi

The religious factor has had a significant and enduring impact on the legal and social institutions of marriage and the family, both in terms of their initial conceptualisation and their ongoing evolution. Historically, the institution of marriage and the concept of the family have been largely defined and regulated by religious doctrine. However, in recent times, and with varying rates across different countries, the law of the state has assumed a position of relative autonomy with regard to these domains. Nevertheless, this process has been uneven and not universally implemented. It may therefore be argued that the process of secularisation also has repercussions for legal systems, particularly with regard to personal and family statutes. While this process is becoming increasingly prevalent worldwide, its trajectory may diverge in countries where religious legal systems remain particularly robust. The present research project analyses these aspects, highlighting points of similarity and difference between countries with regard to the legal regulation of these two important aspects of people's lives.

It is typically the case that the predominant religious traditions serve as the foundation for the legal and social frameworks governing marriage and family institutions. This assumption has implications for the rights of religious minorities, who may be subjected to discriminatory measures as a result. Nevertheless, there are notable discrepancies between countries, largely shaped by the level of assurance afforded to the rights of religious minorities, or by the equilibrium between religious entitlements and the prevailing legal traditions of states.

It can be observed that marriage and family are not only relevant in the private lives of individuals but also play an essential role in the collective dimension, as they affect the very foundations of society and the collective identities of communities living in specific geographical areas. Therefore, if the majority religion plays a fundamental role in the definition of marriage rules and family law, then it can be concluded that religion can still exert influence over the determination of the fundamental pillars of societies.

The relevance of religious law in the State of Israel is particularly evident in matrimonial law, as evidenced by the role of the rabbinical courts in matters of personal status, including marriage and divorce. This is discussed in detail in the following report. In contrast, as will be demonstrated, Tunisian legislation permits only civil marriage and attaches significant importance to the registration of marriages. Conversely, the regulation of certain aspects of family life, such as inheritance, is based on Islamic law. Furthermore, a fundamental role in guaranteeing the rights of non-Muslims

(and, in particular, the right of women to inherit) is based on the interpretation and evolution of jurisprudence. Additionally, the rights of other religions with regard to this matter are not acknowledged.

The rules that will be analysed below thus identify significant discrepancies between countries, as well as notable internal variations, based on the individual legal institutions that are examined. This also has implications for the way in which the concept of a secular state is typically defined. It is erroneous to assume that all aspects of secularity are uniform. Even societies that are ostensibly secular may have religious foundations. Furthermore, societies that espouse secularised rights may be more or less directly influenced by religious norms.

3.2 Israel

3.2.1 Legal Analysis

By Ilaria Valenzi

a) Celebration and validity of marriage

From a legal standpoint, the only type of legally binding marriage celebration in Israel is a marriage that is celebrated in accordance with recognized religious rites. This type of marriage is considered to have the same legal validity as a civil marriage. Consequently, with regard to the aforementioned aspect, the legal system does not necessitate the observance of a civil matrimony prior to a religious one.

Those religious communities which are entitled to solemnise marriages in accordance with their own laws are the Jewish Communities, the Islamic Communities and the historical Christian Churches. In this sense, a plurality of religious jurisdictions coexist in the regulation of marriage and divorce, according to a legal pluralism typical of the millet system. It should be noted that there is no specific civil law regulation in these matters. It is also notable that ministers of religions who may celebrate religious marriages do not need to obtain specific state authorisation to do so. In the context of Jewish communities, it should be observed that while Conservative and Reform liberal rabbis are entitled to marry Jewish men and women, the marriages celebrated in this way are not recognized by religious law (and therefore have no civil value).

b) Dissolution and Annulment of Marriage

In light of the preceding analysis, it can be concluded that in the case of dissolution or annulment of a religious marriage, the relevant decree may only be issued by the religious authority.

This is particularly the case for Jewish and Islamic communities, which collectively represent the majority of the country's population. In all instances where the dissolution or annulment decree is valid under religious law, it will also have legal effect from a civil standpoint.

c) Inheritance and Dowry

The subject of inheritance is afforded a greater degree of flexibility. Indeed, the individuals concerned have the authority to determine whether their inheritance should be subject to state legislation, irrespective of their religious affiliation, or whether such regulation may be contingent upon the religious affiliation of the deceased. Once more, the individuals entitled to this right are members of the Jewish, Muslim, or Christian communities. Furthermore, there are no instances in which the religious rules governing inheritance for these communities are disregarded in the state's legal system.

In the case of dowry, the individual concerned may elect to adhere to the legislation of the state or that of their religious affiliation. In the latter case, all religious norms are observed within the state's legal system.

d) Rites to enter a religious community

In Israel, for religious communities that have been granted recognition of their religious rights by the state (namely, the Jewish majority, Islamic communities and the Christian Churches), there are no legal impediments to the celebration of religious rites (such as circumcision and baptism) for the purpose of entering the religious community.

e) Children's rights

With regard to the rights of children born within religiously celebrated marriages, religion constitutes a relevant element in the courts' decision-making process regarding the spouse to whom the children are entrusted in the event of the dissolution of the marriage. From this perspective, case law demonstrates a bias in favour of religions that are accorded special status, namely the Jewish, Muslim and Christian communities.

Conversely, if the aforementioned religions have established specific guidelines pertaining to medical treatment, parents are entitled to have these standards upheld by the medical facilities where their children are receiving care.

Similarly, religious dietary rules must be respected by public schools attended by children belonging to religiously connoted households, with the exception of the three religious communities already referred to.

With regard to the issue of child adoptions, it is notable that the religious element is particularly relevant when the courts have to make decisions regarding adoptive parents. Indeed, according to the adoption law, a Jewish child cannot be adopted by a Muslim or Christian family.

3.3 Morocco

3.3.1 Legal Analysis

by Ilaria Valenzi

a) Celebration and Validity of Marriage

In accordance with Moroccan legislation, the sole form of legally binding matrimonial celebration is a marriage solemnized in accordance with recognized religious rites. This form of celebration is accorded the same legal validity as a civil marriage.

The religious communities that are entitled to solemnise marriages in accordance with their respective laws are the Islamic Communities and the Roman Catholic Church, the Mainline Protestant Churches, and the Orthodox Christian Churches. Morocco thus recognizes Judaism and Christianity as 'ahl al-kitab' (religions of the book), in addition to Islam. A significant distinction can be observed between Islam and the other religions of the book with regard to the celebration of marriage. While Muslims require that marriages be conducted by the 'Adoul', who must be authorised to do so by the State, Jews and Christians perform marriages with the involvement of Christian or Jewish authorities, who are autonomous in designating their ministers of celebration.

It is not permitted for members of belief organisations to enter into a marriage that does not comply with Islamic law.

b) Dissolution and Annulment of Marriage

With regard to the system of dissolution or annulment of religious marriages with civil effects, the relevant decree must be issued by an RBO authority. However, for it to take effect civilly, it must also be validated by a state authority. In such cases, the religious authorities that may issue such decrees belong to the Islamic communities, the Jewish Communities and the Roman Catholic Church.

c) Inheritance and dowry

In Morocco, the state law governs the inheritance process, taking into account the deceased person's religious affiliation.

Consequently, the only religious communities whose legislation is applicable in this instance are those of Islam and Judaism. In the case of the former, as a country with a Sunni Islamic majority, Morocco does not apply Shiite fiqh.

The issue of dowry is governed by the laws of the state in accordance with the religious affiliation of the individual concerned.

Once more, it should be noted that only Sunni fiqh and Jewish law are integrated into the Moroccan legal system.

d) Rites to enter a religious community

In Morocco, the state does not impede the celebration of religious rites (e.g. circumcision, baptism) for entry into the Islamic, Jewish and Christian Catholic religious communities.

e) Children's rights

With regard to the rights of children born within religiously celebrated marriages, religion is a relevant factor in the courts' choice of the spouse to whom to entrust the children in the event of dissolution of the marriage. From this perspective, the case law evinces a negative bias against all religions other than Islam.

This reflects the general Moroccan legal system, which does not provide for the possibility of a marriage between a Muslim woman and a non-Muslim man being validated. Similarly, inheritance between a Muslim and a non-Muslim is not permitted.

In addition, with regard to religious dietary rules, these must be respected by public schools attended by children belonging to family units with exclusive reference to Islamic, Jewish and Christian Catholic communities.

Furthermore, in the event that the aforementioned religions provide for specific regulations pertaining to medical treatment, parents are entitled to have these norms upheld by the medical facilities where their children are receiving care.

With regard to the issue of child adoptions, it is notable that the religious element is particularly pertinent when courts are required to make decisions regarding adoptive parents. In this context, case law demonstrates a certain degree of bias in favour of Islamic communities, while also exhibiting a number of biases against Christian and atheist communities.

3.4 Tunisia

3.4.1 Legal Analysis

by Ilaria Valenzi

a) Celebration and Validity of the Marriage

It is firstly important to note that in Tunisia, the state has a monopoly on the production of legislation on personal status. The CSP has sought to establish a synthesis between religious and legal norms in an area that has long been governed exclusively by religious norms. In order to provide the CSP with a religious basis and to legitimise its interference in the reserved domain of the family, the first President of the Republic, Habib Bourguiba, had frequently invoked the principle of *ijtihad*. The amendments to the CSP primarily pertained to the chapter on marriage and its dissolution,

whereas the remaining provisions, particularly those pertaining to inheritance, remained unaltered and continue to be guided by religiously influenced regulations.

From a legal standpoint, the only form of marriage that is legally binding in Tunisia is a civil marriage. It is thus obligatory to solemnise a civil marriage prior to a marriage according to religious rites and rules.

It is stipulated that the Tunisian Personal Status Code prohibits polygamy, which is considered a criminal offence. Additionally, the code has abolished the institution of the marriage guardian, stipulating that the consent of both spouses is required for the celebration of the marriage. Moreover, the Civil Status Act of 1957 reaffirmed the significance of registering marriages, designating the marriage contract as a solemn act. In order for a marriage contract to be legally binding, both the bride and groom must have reached the age of 18. However, the Tunisian legal system allows for the conclusion of a marriage contract below this age in cases where special permission is obtained from the courts, or in instances where there are serious reasons and the marriage is in the clear interest of the spouses (Articles 5 and 6). Forced marriages are prohibited by Article 21 of the Personal Status Code, yet no sanction is provided. Furthermore, Law No. 58 of 2017 on the Elimination of Violence against Women prohibits the marriage of girls between the ages of 13 and 18.

In this regard, Tunisia has signed and ratified a number of significant human rights treaties and is actively engaged in relevant reporting frameworks. Tunisia has ratified international human rights treaties and conventions that prohibit child marriage, including the International Covenant on Civil and Political Rights (1967), the Convention on Consent to Marry, Minimum Age for Marriage and Marriage Registration (1962), and the Convention on the Elimination of All Forms of Discrimination against Women (1979).

b) Dissolution and Annulment of Marriage

In light of the preceding analysis, it can be concluded that in the case of the dissolution or annulment of a religious marriage, the corresponding decree may only be issued by a state authority. It is specified that the Civil Status Code prohibits repudiation and mandates the judicial dissolution of the marriage on an entirely equal basis.

The legislation provides for the equalisation of divorce rights for women and men. A divorce may be granted with the consent of both spouses, at the request of one of the spouses due to damage caused, or on the basis of the husband's or wife's request (Chapter 31). In Tunisia, the dissolution of a marriage cannot be decreed by any other authority than the courts.

c) Inheritance and Dowry

The matter of inheritance is subject to the jurisdiction of state law, irrespective of the religious affiliation of the deceased. Historically, during the French protectorate, Muslims were subject to personal status laws inspired by the Maliki rite, while Jews were governed by their own laws and courts. The Code of Personal Status (13 August 1956) abolished legal pluralism, and on 27 September 1957, jurisdictional pluralism was abolished to make way for a single legal and jurisdictional order, competent to hear disputes relating to personal status between Tunisians, irrespective of religion. Nevertheless, the stipulations of the Personal Status Code are founded upon the principles

of Islamic law pertaining to inheritance. It is, however, important to note that no text in the Tunisian legal system explicitly states that religious inequality constitutes an obstacle to inheritance. In essence, the issue can be distilled to a matter of interpretation of Article 88 of the Personal Status Code (PSC), which addresses impediments to inheritance. This article pertains to religious denomination, rather than nationality, although it is primarily relevant to foreigners, given that in family relations, non-Muslims are essentially regarded as foreigners. The evolution of case law on this issue has been marked by three distinct phases. In the initial phase, the Tunisian courts consistently invoked Muslim law in their interpretation of Article 88 of the Personal Status Code, thereby effectively denying the heir the right to inherit. In a second phase, the Court of Cassation was undecided as to whether to adhere to a faithful interpretation of Muslim law or to adopt a secular interpretation of Tunisian law. A secularised interpretation was subsequently adopted, and following a ruling in 2009, it became possible for non-Muslim women to inherit from their Muslim husbands.

The consequence of this system is that no religious or belief rules other than those of Islamic communities can acquire civil effects on the basis of the country's legal system.

With regard to the matter of the dowry, this is likewise subject to the provisions of state law, irrespective of the religious affiliation of the parties concerned. In particular, the Civil Status Code (CSP) stipulates that a dowry is a prerequisite for the validity of marriage (Article 3). This stipulation, despite ostensibly being beneficial to the wife, in fact reflects a demeaning dimension for women. Article 13 of the CSP states that: "The husband is not permitted to compel the wife to consummate the marriage unless he has paid the dowry."

The Personal Status Code (CSP) constituted the cornerstone of the social and political modernisation project spearheaded by the first President of the Republic Habib Bourguiba, with the objective of establishing a national identity that transcends religious affiliations. Nevertheless, the code is distinctive for its dual register, encompassing both secular and religious elements. The maintenance of the dowry represents a symbolic adherence to Muslim tradition, as it is essentially a formality that differs from the dowry outlined in classical Muslim legal agreements.

d) Rites of entry into a religious community

In Tunisia, the state does not impose any restrictions on the celebration of religious rites (e.g. circumcision, baptism) for individuals seeking to join a religious community.

The Constitution enshrines the right to freedom of belief and conscience (Article 27) and the freedom to celebrate religious rites, provided that they do not constitute a disturbance to public safety (Article 28). This ground for limitation is frequently misused, as it engenders ambiguity regarding its scope and permits discretionary authority. It is therefore crucial that legislation and the courts develop a comprehensive understanding of legitimate limitations on public order, drawing upon Article 55 of the Constitution (the limitation of rights clause) and international standards. Furthermore, this limitation must be constrained by the principles of necessity and proportionality. Moreover, Article 26 asserts the right to individual freedom, thereby establishing freedom as a fundamental tenet. Additionally, Article 23 addresses the general prohibition of discrimination and emphasises the principle of equality in its two dimensions: equality before the law or equal protection of the law and equality in rights. It is anticipated that the principle of equality among all citizens will result in the non-discrimination of individuals on the basis of factors such as gender, colour, race or religion.

e) Children's rights

A significant number of discriminatory practices based on religious beliefs impact the ability of non-Muslims to exercise their family rights, including instances where custody is denied to non-Muslim mothers or where foreign nationals are subjected to unequal treatment on the basis of their religious affiliation, resulting in a sense of inferiority. In numerous instances, Tunisian courts have declined to enforce a religious public order that would deny a foreign mother living abroad her right to custody under Muslim law.

Furthermore, there are no religious stipulations that public health institutions are obliged to adhere to when treating children from religiously oriented families.

In particular, the vaccination of children is mandatory in Tunisia, given that it constitutes a public health issue. Article 214 of the Penal Code provides for the repeal of legislation. In accordance with Article 214 of the Penal Code, abortion is permitted during the first three months of pregnancy, provided that it is performed by a qualified medical practitioner in a medical facility. Additionally, there is no legislation that mandates parental consent for adolescents seeking access to sexual and reproductive health services.

With regard to adoption, only candidates of the Muslim faith are eligible. Applications for adoption by foreign nationals or even non-Muslim Tunisians are not eligible. In order to qualify as adoptive parents, both members of the couple must meet the aforementioned religious and Tunisian nationality criteria. It should be noted that this rule may be relaxed in certain circumstances. These include cases where the family resides in Tunisia and the head of the family meets the aforementioned conditions, or if both members of the couple are Muslims residing in an Arab and Muslim country. Additionally, candidates for adoption may be considered if they have Tunisian family ties. In the event of an individual undergoing a conversion to Islam, the requisite certificate must be issued in Tunisia.

3.5 Slovenia and Malta

3.5.1 Legal Analysis

by Ilaria Valenzi

a) Celebration and Validity of Marriage

From a legal standpoint, while Slovenian law treats civil and religious marriages as entirely distinct, Maltese law allows for a marriage to be celebrated according to the rites and rules of an RBO, which is afforded the same legal validity as a civil marriage, provided that the conditions set forth by state law are met. A common consequence of the two systems is that there is no legal obligation to celebrate a civil marriage before a religious marriage.

With regard to the Maltese legal system, the Marriage Law (Cap. 255 of the Laws of Malta) stipulates that a marriage may be contracted in either a civil or a religious form. The civil form is that established by the law for civil marriage, whereas the religious form is in accordance with the aforementioned provisions (Art. 11(1)). A number of formalities preceding marriage are common to both civil and religious marriages. Articles 21 to 32A of the Law refer exclusively to Catholic marriages and the jurisdiction of Ecclesiastical Tribunals and the Roman Pontiff. Article 32A states that nothing contained in the Law may be interpreted as obliging an official of a religious body recognized under the Law to celebrate a particular form of marriage that is not recognized by the religious body of which that official is a member. With regard to RBOs, Article 17 of the Marriage Law stipulates that a religious marriage (other than a Catholic marriage, which is regulated separately in terms of Canon Law) must be contracted according to the rites and customs of a church or religion recognized for the purposes of the Law and to which one of the two persons to be married belongs or professes. However, the consent of the persons to be married must, in order for the marriage to be valid, conform in substance to the consent required for a civil marriage. A church or religion (always other than the Roman Catholic Church) will be recognized for the purposes of this Law if it is generally accepted as a church or religion or if it is recognized for the purposes of Article 17 by the Minister responsible for the Public Register. In the event of any doubt as to the recognition of a church or religion, the Minister's decision will be final and conclusive. In accordance with the Marriage Register (which forms part of the Public Register), the forms of religious marriage that have been recognized thus far for the purposes of Article 17 are those of the following religions: Presbyterian, Lutheran, Islamic, Bible Baptist Church, and Evangelical Christian Church (Assemblies of God and Evangelical Baptist Church). In such instances, the representatives of the respective religions are not required to obtain state authorisation in order to solemnise a marriage.

b) Dissolution and Annulment of Marriage

In light of the aforementioned analysis, the Maltese legal system stipulates that, in the event of the dissolution or annulment of a religious marriage, the pertinent decree may be issued by the religious authorities. However, for it to have civil effects on the marriage, it must be validated by the state authorities. In particular, final judgments of annulment or dissolution issued by the Roman Catholic Ecclesiastical Tribunals and the Roman Pontiff's decrees on unconsummated marriages (in cases where one of the parties is domiciled in Malta or is a citizen of Malta) will have civil effect in Malta, provided that the exequatur of the Court of Appeal is granted. The exequatur is granted subsequent to the Court's determination that the conditions set forth in Articles 24 and 26 of the Marriage Act have been satisfied. In regard to the judgments of the Roman Catholic Ecclesiastical Courts, the most pivotal condition is that "during and in the course of the proceedings before the Court, the parties were assured the right of action and defence in a manner not substantially dissimilar to the principles of the Constitution of Malta" (Section 25(5)(ii) of the Marriage Act).

In the absence of such circumstances, Section 37 of the Marriage Act provides that: The government may enter into agreements with other churches, religions, or denominations concerning the recognition of marriages celebrated in accordance with the rules and regulations of the aforementioned church, religion, or denomination, as well as declarations of nullity or annulment of such marriages by the relevant organs of the church, religion, or denomination, in accordance with its established rules and regulations.

c) Inheritance and Dowry

Both Malta and Slovenia have legislation that stipulates that the matter of inheritance is to be regulated by the laws of the state, irrespective of the religious affiliation of the deceased.

In particular, the Slovenian Law on Inheritance regulates inheritance matters independently of the rules of the O.D.R. The religious affiliation or creed of the deceased is not a determining factor; however, an individual may stipulate in their will that a portion of their estate or the entirety of it be allocated to a religious community or creed (Article 59).

In Maltese law, certain provisions of the Civil Code (Chapter 16 of the Laws of Malta) appear to be neutral with regard to religious affiliation. Nevertheless, they are in accordance with the stipulations set forth in the Canonical Code of Canon Law of the Catholic Church. To illustrate, Article 611(1) stipulates that members of monastic orders or religious corporations of regulars are prohibited from disposing of their assets by testamentary disposition subsequent to taking their vows.

Article 871 It is important to note that, in addition to the provisions of this Code concerning renunciations in anticipation of marriage, it is not permitted to renounce an inheritance or to alienate any rights pertaining to it unless one has taken vows in a monastic order or a religious congregation.

While there are no cases in Slovenia where religious rules are not recognized by the legal system, in Malta Article 611(2)(3) has been modified. Article 611(2)(3) of the Civil Code stipulates that individuals who have taken vows in a monastic order or a religious congregation of regulars are prohibited from receiving bequests other than modest lifelong pensions, unless otherwise prohibited by the rules or order to which they belong. Once such individuals have been lawfully released from their vows, they regain the capacity to receive bequests and dispose of assets acquired subsequently, as well as any other stipulations.

Furthermore, with respect to matters pertaining to dowries, there are both similarities and differences between the legal systems of the two countries.

The institutions of dowry and servitude were abolished in Maltese law in 1993. Despite the abolition of the dowry institution, which has resulted in the absence of specific state regulation of dowries, issues pertaining to dowries under religious or faith-based norms may potentially arise and be adjudicated under the general rules governing contractual obligations. In this regard, Article 985 of the Civil Code stipulates that "Things that are impossible, or prohibited by law, or contrary to morality, or public order, cannot be the subject of a contract." Article 990 of the same Code provides the following: A contract is considered invalid if its terms are contrary to the law, immoral, or contrary to public order. In conclusion, Article 1054 of the Civil Code states that: "Any stipulation in a contract or quasi-contract that is contrary to morality or public order, or prohibited by law, or that requires the performance of an impossible act, is deemed null and void, and the agreement upon which it depends is considered void as well."

In Slovenian law, although the Family Code does not explicitly mention the dowry, it is nevertheless considered to represent the spouse's special property, acquired before marriage (Article 77 of the Family Code). In accordance with Article 85 of the Family Code, the status of the dowry may be determined through a contract regulating property relations. This contract allows spouses to agree

upon the content of their matrimonial property regime, which may differ from the legal regime. Furthermore, the aforementioned contract may also regulate other property relations for the duration of the marriage and in the event of divorce.

It can be concluded that while in Malta religious laws relating to dowry are not applicable in the state legal system under any circumstances, in the Slovene system the interested party may decide whether the dowry is to be regulated according to state law or the RBM law. However, the latter option is only permitted if it does not result in discrimination based on sex, religion or belief, or other grounds. Furthermore, all religions considered in the sample may have the right of one of their affiliates to have the dowry regulated by state law according to the rules of their religion. This may be achieved by entering into a contract regulating property relations, with due consideration of the fact that, from the perspective of state law, contractual provisions regarding dowries that contravene the Constitution, mandatory regulations or moral principles would be inadmissible (Article 86 of the Code of Obligations).

d) Rites of entry into a religious community

In Slovenia, there are no legal impediments to the performance of religious rites (e.g. circumcision, baptism) for the purpose of entering a religious community, as set forth in state legislation. While state legislation does not explicitly prohibit the circumcision of children on religious grounds, this practice has been deemed ethically unacceptable by the National Commission of Medical Ethics. Consequently, there is no evident legal prohibition. No restrictions are recorded in Malta.

e) Children's rights

The issue of religious affiliation is not a pertinent factor when determining custody of children in the event of a marriage dissolution. In principle, a judicial rationale based on this premise could be perceived as discriminatory. Consequently, there are no pertinent pronouncements in Slovenian law regarding the potential for favourable or unfavourable treatment of a specific religious community. In contrast, Maltese law displays a tendency to disfavour parents belonging to the Jehovah's Witnesses community with regard to blood transfusions for their children. In such cases, the courts order the transfusion to be carried out.

Moreover, neither country requires public care institutions to adhere to religious tenets when treating children in hospital. With regard to Slovenia, the parents are not entitled to have religious rules respected in the case of circumcision of children. In the case of Malta, the issue concerns transfusions, which are carried out in accordance with religious rules.

With regard to the matter of adoption under the Maltese legal system, however, religion may be a factor, albeit in a very indirect manner. With regard to marriage contracts, Article 1238(1) of the Civil Code stipulates that it is not permissible for prospective spouses to enter into any agreement that designates either of them as the head of the family, or that derogates from any rights or obligations derived from parental authority, or from legal provisions pertaining to minors, or from any prohibitory legal rule. However, sub-article (2) then provides the following: Nevertheless, any stipulation that all the children, or any of them, shall be brought up in the religion of either of the spouses shall be deemed valid.

In accordance with the Slovenian legal system, the second paragraph of Article 215 of the Family Code stipulates that during the adoption process, the court is obliged to consider the child's opinion, expressed by the child him- or herself or through a person of his or her trust and chosen by him or her, provided that the child is capable of understanding the implications of this expression. The third paragraph of the aforementioned article stipulates that the child's consent is a prerequisite for adoption, provided that the child in question is capable of comprehending the implications of the decision. Article 10 of the Religious Freedom Act establishes the right of parents to raise their children in accordance with their religious convictions with respect to religious upbringing. In doing so, it is imperative that they respect the physical and mental inviolability of the child. The legislature has determined that a child who has reached the age of 15 is entitled to exercise autonomy with regard to religious freedom. In accordance with Article 224 of the Family Code, a child's religious or ideological beliefs may constitute a significant factor in the assessment of an adoptive parent's suitability.

3.5.2 Sociological Analysis

By Alessia Passarelli and Davide N. Carnevale

3.5.2.1 Malta

a) Perceptions from the RBOs representatives

The most widespread religion in Malta is Catholic Christianity, a majoritarian RBO that counts more than 80.000 members (88,3%). In addition to answers by representative of the Roman Catholic Church, we will analyze here the answers to the questionnaire made by religious representatives of some RBOs: Hindu Communities, Humanists Malta, Romanian Orthodox Church and Bahá'í Faith.

According to the World Religion Database (Johnson and Grim, 2021): Muslim communities represent 2,02% of the population, Orthodox Churches 1,02 %, Protestant Churches 0,29%, Jehovah's Witnesses 0,20% and the Hindu communities 0,01%. After the Muslim communities, the largest group is composed by the Atheists 1,40% of the population.

Next to the Catholic Church, the Humanist community feels that their organisation is 'fully recognised' by the state, while the Romanian Orthodox Church, the Hinduist and Bahá'í communities perceive that their recognition is limited. When it comes to expressing their identity in public (wearing religious symbols or practicing their beliefs or teachings), the Romanian Orthodox Church encounters some challenges related to the lack of knowledge of their religion. Analysing the response of the Hindu communities' representative, although they have no problems expressing their faith or wearing their symbols, they often encounter difficulties when wanting to collectively practice their belief or finding a worship space.

b) Interfaith dialogue

Interreligious dialogue is important to a very large extent according to respondents of the Roman Catholic Church and Bahá'í Faith. Periodic interfaith meetings are organized by various institutions

and the Bahá'í Faith representatives try to attend most of them. The Catholic church holds an inter-religious dialogue commission where meetings with other RO are held, and it is a member of an interdenominational organization where Christian churches usually meet and collaborate. The Catholic Church is also involved in social and cooperative activities within a Migrant Commission that works with people of all faiths. The Romanian Orthodox Church is part of the Ecumenical Council of Malta for the interfaith dialogue, and is actively involved in Christians Together in Malta.

According to the questionnaires, the interreligious dialogue is mostly sponsored and supported by the leaders of religious organizations and by governmental organizations, while religious local communities and representatives of civil society have a minor influence (corresponding to the 25% of answers). According to the questionnaires, moral and ethical topics, social and economic issues and spiritual topics are privileged in interreligious dialogue conducted by RBOs.

c) Marriage and family

The 40% of respondents are not allowed to perform marriages recognized by the State; this is underlined in particular by representatives of the Romanian Orthodox Church and the Bahá'í Faith. A respondent belonging to the Hindu community underlined problems in complying with the State rules concerning the celebration of a valid marriage, when State law hindering the exercise of some rights that should be available according to their religious customary laws. On the other hand, the Romanian Orthodox Church sometimes faces problems in complying with the State rules concerning the dissolution of marriage. Representatives of the Romanian Orthodox Church and of the Hindu community sometimes face problems in the context of divorce proceedings, regarding the custody of their children.

A representative from the Hindu community affirms that they do not need a state authorisation to celebrate a religious marriage that is also valid for the State. Celebrants of the Romanian Orthodox Church and also Humanists have often experienced problems in getting this authorisation, due to procedures required to obtain authorization.

More in general, the members of Malta RBOs rarely or never faced difficulties in complying with State regulations concerning inheritance.

3.5.2.2 Slovenia

a) Perception from the RBOs Representatives

In Slovenia, the majority of the population professes the Catholic religion: approximately 74% (around 1,540,000 citizens) identify as Catholics. This paper will analyze the responses of religious representatives from two minority religions: the Buddhist Community and the Sunni Islamic Community. Among these religious organizations, Islam is the most widespread, with between 50,000 and 80,000 members. The Buddhist organization has fewer than 5,000 registered members.

According to the World Religion Database (Todd M. Johnson and Brian J. Grim, eds., Leiden/Boston: Brill, 2021), Muslims represent 3.80% of the population. Other religious demographics include:

agnostics (10.40%), atheists (2.45%), Orthodox Christians (2.86%), Protestants (1.68%), Jehovah's Witnesses (0.08%), and Jews (0.01%).

The Buddhist Community affirms that they are sufficiently recognized by the State and its legal framework, considering the rights and opportunities afforded to it. However, the Islamic Community considers itself as limitedly recognized. According to the respondents, the Islamic communities sometimes face challenges in expressing their identity in public in Slovenia, while this rarely happens for Buddhist groups.

The main challenge faced by members of Islamic Communities is establishing spaces and institutions to collectively practice their beliefs. Furthermore, there are no certified halal food agencies or education institutions to provide religious teaching for Imams with a Slovenian background. As a respondent underlined, "98% of Imams in Slovenia come from Bosnia". Both religious organizations consider a larger recognition of their religion-based personal law system as "not very important".

b) Interfaith dialogue and religious freedom

For Muslim respondents, interreligious dialogue is important to a large extent. Islamic Communities are engaged in initiatives of interreligious dialogue with other religions, there are regular meetings on that topic, but nonetheless, peace and mutual respect should not be taken for granted in these times. Religious organizations at the institutional and leadership level, Governmental organizations, and Inter-religious organizations at the local level are equally sponsoring and supporting the inter-religious dialogue most.

The topics that are privileged in interreligious dialogue conducted by Islamic Communities are moral and ethical topics, as well as social and economic issues. For Buddhist respondents, on the other hand, interreligious dialogue isn't a relevant topic in the religious education provided by public and faith-based schools, where they consider this very important (while for Islamic Communities this is important to a moderate extent).

Speaking of religious freedom, both ROs agree that it would be important to promote more the right to religious freedom in Slovenia. A Buddhist respondent agrees that the growth of refugees in his/her country and the debates about State's policy related to ethical issues (i.e. abortion, euthanasia) make religious freedom a more important issue. The Muslim respondents partially agree on these two reasons.

Muslim respondents agree that the State provides favorable conditions for the majority RO, while the Buddhist respondents partially agree on that. At the same time, they both partially agree that the Slovenian State promotes religious freedom well and that the State provides equal conditions for both the religious majority and minorities. They also partially agree on the fact that "the State provides equal conditions for religious and non-religious groups"; "the State does not favor any religious group"; and "the State manages religious issues very well".

c) Marriage and family

Buddhist Communities are allowed to perform marriages recognized by the State, but this is not the same for Islamic Communities. A Muslim respondent says: "Muslims in Slovenia have two systems for marriage: one is civil, done by the State, and the second one is religious, done by the Islamic

community. Many people do both, so they get married twice". Buddhists find no problem in complying with the State rules concerning the celebration of a valid marriage, but Muslims sometimes face problems because State law prevents the respect of some obligations established by their RO law. With the dissolution of marriages, however, there are never or rarely problems.

Representatives of both ROs don't need State authorization to celebrate a religious marriage, but Muslims underlined as problematic the fact that the State does not recognize religious ceremonies at all. These ROs rarely or never have any difficulties in complying with State regulations concerning inheritance. Both ROs never have difficulties in complying with State regulations concerning dowry.

Muslim parents sometimes experience problems or discrimination when wanting to perform rites marking the entrance of their children into their RBO, because State law imposes obligations that conflict with the RBO's law, for example, circumcision for religious purposes is not accepted. Sometimes members of Islamic Communities face issues or discrimination due to their religion when, in the context of divorce proceedings, they ask the court to be entrusted with the custody of their children, but they are rarely discriminated against in requests for adoption.

3.5.3 Comparative Remarks

By Anna Parrilli

a) Personal laws

The countries considered in this research can be divided in two groups. Malta, Slovenia and Tunisia do not regulate family law through religion-based systems of personal laws. However, in Tunisia, marriage and family law are deeply influenced by the Islamic tradition. In Israel and Morocco, instead, some matters of marriage and family law are regulated by the religious laws of the officially recognized religious communities. Under Israeli law, which inherited the Ottoman system of millet, there are fourteen State-recognized communities: Jews (which is the majority religion), Muslims, ten Christian denominations (Greek Orthodox, Melkite Greek Catholic, Latin, Armenian Orthodox, Syrian Catholic, Chaldean Catholic, Maronite and Anglicans), Druze and Bahai. These religious communities are granted exclusive jurisdiction on marriage and divorce, and parallel jurisdiction over other matters of personal status. In Morocco, the Mudawwana applies to all citizens with the exception to Jews. The latter enjoys constitutional protection as a native RM in the country. As such, Jews are allowed to apply Jewish law and to resort to rabbinical courts on some matters of personal status, such as marriage, divorce, inheritance and others. Moroccan rabbinical authorities, who are also court officials, administer Jewish family courts. The Moroccan code of family law is a codification of Islamic law, judges trained in the country apply a Sunni-Maliki interpretation of Islam and they administer the courts for personal status matters for all other religious groups. The latter situation is especially problematic, as it causes the subjection of RMs to the rules of a religion/belief other than their own.

b) Civil marriage

In Slovenia only civil marriages are valid for the State. Malta and Tunisia also introduced the institution of civil marriage. However, in Tunisia, State law on marriage is deeply influenced by the Islamic

legal tradition. Similarly, in Morocco the institution of marriage is also regulated by State law and marriage law follows the Islamic tradition, which was incorporated into State law, and it applies to all citizens (with the sole exception of Jews). In Israel, there is no possibility to conduct a civil marriage under State law. The State-recognized religions are granted exclusive jurisdiction on marriage, and they apply their religious laws. Civil marriages performed abroad can be recognized by Israeli law based on the application of private international law, including same-sex marriages and, since 2023, marriages performed online under the law of a foreign country (Supreme Court of Israel, *affaire Ministry of the Interior v. Brill*, n. 7368/22).

c) State-recognized religious marriages

The countries considered in this research display different approaches to the State-recognition of religious marriages. While Slovenia and Tunisia do not recognize civil effects to religious marriages; in Malta, Israel and Morocco marriages celebrated under the auspices of RMs may acquire civil effects. However, only some RMs officially recognized by the State enjoy this possibility. In Morocco, Jews are the sole RM that can perform marriages under Jewish law that are valid for the State. In Malta, religious denominations that have an agreement with the State may have their religious marriage recognized. At present only the Holy See entered in such agreement (however, Catholicism is the majority religion). In Israel, Jews (the majority religion), Muslims, ten Christian denominations, Druze and Bahai can marry and have their marriage recognized by the State. Moreover, non-Orthodox minorities among the Jewish majority (mainly, Reformist and Conservative Jews) may face discrimination. This is because marriages celebrated under non-Orthodox religious rites, in Israel or abroad, are recognized as valid by the State and for the purposes of the Law of Return, which grants all Jews the right to immediately obtain Israeli citizenship. However, these marriages may not be accepted as valid marriages by the Israeli Rabbinical courts, which only follow the Orthodox interpretation of Judaism. This situation leaves non-Orthodox couples in a limping status.

d) Polygamous and under-age marriages

In Malta, Slovenia, Israel and Tunisia polygamous marriages are prohibited. In Morocco, instead, the *Mudawwana* regulates polygamous marriage with some limitations. Article 40, for instance, states that polygamy is forbidden when there is the risk of inequity between the wives. The wife can also stipulate in the marriage contract that her husband will not take another wife. Moreover, the courts only authorize polygamy under exceptional and objective motive and provided that the man has sufficient resources to support the two families and guarantee maintenance rights, accommodation and equality in all aspects of life (*Mudawwana*, Articles 41-42). Moreover, in Morocco, customary marriages, i.e. marriages performed privately by the reading of Quranic verses may, under certain circumstances, be recognized by the judge as equal to those celebrated according to the forms established by the Family code (*Mudawwana*, Article 16).

In all the countries considered in this research, the marriageable age is 18 for both girls and boys. In Morocco, for instance, Article 20 of the *Mudawwana* allows to derogate from the marriageable rule, leaving to at the (sole) discretion of the judges to establish the circumstances under which underage marriages are allowed. Similarly, in Tunisia, Article 5 of the Personal Status code provides that a judge may permit girls and boys below 18 to marry under certain circumstances and if it is in the best interest of both prospective spouses.

e) Inter-religious marriages

Interreligious marriages can be freely performed in Malta, Slovenia and, since 2017, in Tunisia. In Israel, instead, it is not possible to celebrate mixed-faith marriages (unless it is conducted between a Muslim man and a Jewish or Christian woman, in accordance with Islamic law). Interfaith couples can have their marriage celebrated abroad recognized under Israeli law. Consistently with Islamic principles of family law, in Morocco the Mudawwana prohibits the marriage of a Muslim woman to a non-Muslim man, and the marriage of a Muslim man to a non-Muslim woman unless she is of the Christian or Jewish faith (Article 39), while a Muslim woman who wants to marry a convert to Islam must ask for authorization from the Court of Appeal (Article 65).

f) Dowry

In Slovenia, State law does not regulate the institution of dowry, while Malta abolished it in 1993. In Morocco and Tunisia, instead, dowry (mahr or sadaq) constitutes a *conditio sine qua non* for the validity of marriage; as such, it is regulated by State law in accordance with the principles of Islamic law. In Israel, dowry can be regulated by State law or by the religious law of the recognized communities.

g) Dissolution of marriage

In Malta, the decree of dissolution can be issued by RBMs authorities who entered into agreements with the State, but they need to be validated by the State authorities to acquire civil effects. At present, only the Catholic Church entered such agreements (however, Catholicism is the majority religion). In Israel, the dissolution of marriages of the State-recognized religious communities is issued only by the courts of the RMs according to their rites. In Slovenia and Tunisia marriages can be dissolved only by state's courts or administrative authority. Moreover, despite being Tunisian divorce law deeply influenced by Islamic tradition, the code of personal status abolished repudiation and it guarantees equal divorce rights for men and women. In Morocco, the law regulating the dissolution of marriage also relies on Islamic principles and it applies to all citizens irrespective of their religious belonging. Both divorce and repudiation are regulated by the Mudawwana. However, contrary to Islamic law, repudiation in Morocco can also be requested by the woman and it is subject to the authorization of the judge. Moroccan law allows only Jewish minority to follow the religious law of their community on matters of divorce.

h) Inheritance

In Malta, Slovenia, Morocco and Tunisia, inheritance matters are regulated by State law irrespective of the religion/belief of the deceased. As with other areas, however, in Morocco and Tunisia State inheritance is deeply influenced by Islamic law. In Morocco, only Jews are the allowed to regulate their inheritance matters according to Jewish law. In Israel, matters of inheritance are subject to the concurring jurisdiction of both religious and civil courts.

j) Rites of passage

In all the countries considered there are no obstacles to conversion. However, in Morocco the convert must remain discreet and renounce the right to practice his/her faith in established churches alongside foreigners. Moreover, the penal code prohibits proselytizing Muslims and performing any acts that “shake the faith of a Muslim” (Article 220). In Tunisia, proselytizing in public spaces is prohibited.

l) Children

With regard to adoption, the countries may be divided into two groups. In Malta and Slovenia, adoption is regulated by State law. In both countries, the religion of the adoptive parents and of the adopted child does not play any role, unless it is indirectly relevant as a factor contributing to determine the best interest of the adopted child, which is the guiding international law principle in this field. In Israel, Morocco and Tunisia instead religion is a key factor in adoption/guardianship proceedings. In Morocco, consistently with Islamic principles of family law adoption is not allowed and the Islamic institution of kafala is resorted instead. Moreover, non-Muslims must convert to Islam and be permanent residents to become guardians of abandoned or orphaned children. Moroccan RBMs face discrimination on some family matters, such as, for example, the right to custody, which is denied to non-Muslim women. In Tunisia both the kafala and the adoptions are possible forms of children’s legal care. However, only Muslim, married, couples can adopt. In Israel, it not possible to adopt a child into a family that is not of the religion of that child.

4. Education: Legal and Sociological Analysis

4.1 Introduction

By Ilaria Valenzi

The present section of the report examines the manner in which the selected states regulate religion-related issues in the educational context, with a particular emphasis on the case of public schools and faith-based public schools. The term 'public school' is defined by international sources as a school whose organisation, financing and management are primarily the responsibility of, or under the primary oversight of, a public body (state, regional, municipal). (ODHIR Advisory Council of Experts in Freedom of Religion or Belief, Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools, Warsaw, OSCE/ODHIR, 2007, p. 20). Private schools are defined as those that are not operated by a public authority but are controlled and managed, whether for profit or not, by a private body (e.g. non-governmental organisation, religious body, special interest group, foundation of business enterprise) (UNESCO, Global Education Monitoring Report 2021/2: Non-state actors in education: Who chooses? Who loses? Paris, UNESCO, 2021, p. 33).

In the report, cases are considered in which public schools are run by religious organisations and are therefore defined as faith-based private schools. The two models presented here are essentially those applied, despite several variations, in the countries included in the analysis. The main points of divergence concern the relationship between education and religion in public schools. Specifically, there is a difference of opinion as to whether teaching in public schools should focus on religion and its associated norms, precepts, and principles, or whether it should address religion in the context of its historical, cultural, and social aspects, as well as its role and impact on the nation. In the first case, the model of teaching is that of religion itself, whereas in the second, the focus is on teaching about religion. The model encompasses a range of nuances, but in essence, it delineates two starkly contrasting perspectives on the role of religion in education and, consequently, the role of state schools.

This is exemplified in Israel, where two distinct public school systems exist for Jewish and Arab communities, respectively. Jewish public schools are further divided into secular (*mamlachti*) and religious (*mamlachti dati*) educational institutions. The aforementioned public schools also exhibit differences in the manner of religious instruction. The first type of school provides instruction on religion, while the second type offers religious education. Furthermore, the system for Orthodox Jewish religious schools is distinct, with the teaching of non-religious subjects being optional.

Systems such as those in Morocco and Tunisia are shaped by the fact that the majority of the population adheres to the Islamic faith. Consequently, religious teaching in schools is primarily concer-

ned with the teachings of Islam. Nevertheless, a similar situation exists in Malta, where the Christian Catholic majority is reflected in the educational system. The discrepancies can be attributed to the differing policies regarding exemption from religious instruction. While Malta and Tunisia permit such exemptions, Morocco does not. A further distinction is evident in the case of Slovenia, which is the only country among those considered to have an optional programme of religious and ethical education, with no specific provisions for the country's majority religious group.

The approaches to teaching observed in the aforementioned countries are distinct and shaped by the prevailing attitudes towards religion and its legal status in each state. While these approaches are significantly influenced by the demographics and historical relationship between religion and the state in countries with a significant religious majority, it is imperative to acknowledge the necessity for the creation of more secure spaces for religious minorities.

4.2 Israel

4.2.1 Legal Analysis

By Ilaria Valenzi

a) Religious Education in schools

The Israeli system of regulating religious presence in educational institutions exhibits distinctive characteristics. Indeed, the specific ethnic, religious, and cultural composition of society has resulted in the school system allocating significant resources to individualized instruction tailored to the needs of local communities and denominational affiliations. This has resulted in the formation of a system comprising state schools and public schools with a religious focus. The Compulsory Education Law (1949) established a framework for free and compulsory education for children between the ages of five and sixteen. This framework was extended to include children up to the age of sixteen and made free of charge in 1978. The education system provides distinct pathways for the Jewish and Arab communities. This diversity is also reflected in the language of instruction. There are three categories of Jewish educational institutions: state-run schools, state-run religious schools (which are operated by the state), and private religious schools (also known as Bible schools). The primary distinctions pertain to the instruction of the designated "traditional" subjects and the allotment of time dedicated to them. Traditional subjects, in particular, encompass the teaching of the Bible, oral tradition, the Hebrew language and literature, and the history of Israel. State religious schools dedicate a greater number of hours to their curriculum than state schools (13 hours, in comparison to 8 or 6 hours, contingent on whether the school is a general or a technological institution), whereas in private religious schools, instruction in non-religious scientific and literary subjects is not obligatory. Consequently, Jewish Orthodox private schools are not accredited to award qualifications that are equivalent to those of public schools, as their curriculum is exclusively religious in nature.

Furthermore, in Jewish state schools, Judaism is taught through the Bible, which is perceived mainly as a historical, ethical and literary document. In contrast, in state religious schools, the teaching

of the Jewish creed is an integral part of the curriculum, with a greater number of hours devoted to the study of the Oral Tradition. In this regard, while the teaching of the Bible in state schools is conducted in accordance with scientific criteria and a philological approach, which is secular in nature, in state religious schools, there is a focus on the direct and literal reading of the texts.

The third hypothesis concerns private religious schools attended by ultra-Orthodox Jews (Haredim). In these schools, religious education is not integrated with civic and secular instruction on the role of religion in Israeli society.

It should be noted that the curricula of these schools do not include instruction on the tenets of other religions.

In contrast, Arab public schools teach Islam and Christianity (primarily Catholic, given the prevalence of the Christian population).

Furthermore, both the Islamic and Christian Catholic communities are entitled to establish private faith-based educational institutions.

From the description provided, it is evident that religious instruction holds a distinct value, which is corroborated in the context of state schools through the teaching of religion and in other cases through the teaching of religion, although in accordance with the indicated differences, the Islamic and Catholic communities are also afforded the opportunity to establish their own private denominational schools.

This is also evidenced by the fact that while the state or school authorities select the school texts to be used for the teaching of Islam and Christianity (essentially Catholic), the RBO authorities select the texts to be used for the teaching of Judaism. In this regard, while Jewish religious public schools are afforded a certain degree of autonomy, this autonomy is not extended to Arab state public schools. It should be noted that this autonomy is also recognized for the Islamic and Catholic communities, but only in the context of faith-based schools. The same rationale applies with respect to the right to determine the curriculum and the right to select and appoint teaching staff without state interference. This right is only recognized for private faith-based schools, namely those belonging to the Jewish, Muslim, and Catholic communities.

Analysing the costs, it is emphasised that the salaries of teachers of religious subjects are borne, in state schools as well as in state religious schools, by the state, and this is the case for both Jewish and Islamic and Catholic communities.

As far as private faith-based schools are concerned, it is emphasised that while Muslim and Christian schools may enjoy 70% of total budget if the teachers are trained by public institution and if the public curriculum is taught, the same criterion is not applied for private Jewish schools. These receive substantial funding from the Ministry of Education and these funds are allocated even if the criteria described above are not met. In fact, this means that, while for private Islamic and Catholic schools, teachers are chosen and appointed through a procedure involving both the state and the faith-based school, the same is not the case for Jewish communities, where the staff is trained only by the religious denomination and never by public institutions. In any case, if staff are trained by RBO institutions and not by public institutions, the schools are not supported for training by the State.

It can therefore be argued, albeit with the particularities indicated, that public institutions financially support the faith-based private Jewish, Islamic and Catholic schools, both through the payment of teachers' salaries and through maintenance of the school buildings.

A key aspect of the treatment of teachers in all public schools is the possibility of dismissal if they fail to align their conduct with the principles espoused by faith-based schools.

In contrast, private faith-based schools are not permitted to decline admission based on religious affiliation. One illustrative example is that of an Orthodox Jewish school, which was prohibited by the court from enrolling Jewish students of Sephardic origin. Nevertheless, it is accurate to conclude that the casuistry in question pertains to the nuances within individual religious traditions, rather than to the broader spectrum of religions as a whole. This is due to the fact that the differentiation between faith-based public schools is based on the enrolment of students according to their denominational affiliation.

The diversity of school models also has implications for the right to opt out of religious instruction or the teaching of religion. However, in none of the cases is this right explicitly acknowledged, although the reasons for this vary. The rationale for the inclusion of the Bible in the curriculum of state schools is based on the premise that the objective is not to promote religious belief, but rather to provide an understanding of the Bible as a historical and ethical document. The option is not available for religious state schools and religious public schools, given that they are explicitly oriented towards religion.

In any case, although religious minorities (with the exception of Islam and, specifically, Catholic Christianity) are numerically insignificant, no one is permitted to opt out. This is also true of Muslims and Christians who attend Arab state schools, where Islam and Christianity are taught, as previously discussed.

b) Religious Symbols in Public Schools

In Israel, there is no legal prohibition on teachers wearing religious symbols while teaching or giving lectures. The reference is once more to the three religious communities that are considered in this context: Jewish communities, Islamic communities and the Catholic Church.

It should be noted, however, that while the wearing of religious symbols is not compulsory in state schools, it is in state-run religious schools. The same is true of students, who are required to wear religious symbols in state-run Jewish religious schools and may do so in other cases for Islamic and Christian (mainly Catholic) students.

With regard to the display of religious symbols in schools, it is emphasised that in Israel the Star of David is not considered a religious symbol, but rather a national symbol, as indicated, for example, in the national flag. Consequently, it is obligatory for every classroom, irrespective of whether it is in a public state school, to have a mezuzah affixed to the entrance.

c) Right to abstain from teaching and school attendance on religious holidays

In Israel, teachers are entitled to refrain from teaching on religious holidays in accordance with the prevailing teaching system within the state. This stipulation varies according to the type of educa-

tional establishment in question. However, it is essentially applicable, and of particular importance in the context of state schools and state-religious schools. Furthermore, this right extends to members of the Islamic and Christian Catholic communities, who will therefore attend non-Jewish schools. Furthermore, this right extends to students belonging to the aforementioned religious communities.

d) Student's right to obtain food that is not forbidden by religious rules

Similarly, students belonging to the Jewish, Islamic and Roman Catholic communities have the right to obtain food that is not forbidden by the prescriptions of their own religion. However, there is an additional peculiarity: in all public Jewish schools, when a meal is provided, the food must be kosher. This signifies foodstuffs that do not explicitly comply with, and are not merely proscribed by, the tenets of the Jewish religion.

4.3 Morocco

4.3.1 Legal Analysis

By Ilaria Valenzi

The Moroccan public school system incorporates the teaching of religion.

In accordance with its status as an Islamic country, Morocco acknowledges Judaism and Christianity as religions, or "ahl al-kitab," which are referred to in the Quran as "the people of the Book." This is the foundation upon which the establishment of schools for Jews and Christians is permitted. This right is, in fact, part of the recognized right to transmit their specific beliefs to their co-religionists. It is worthy of note that the Catholic and Jewish Christian communities may have their own specific teaching facilities. The same can be said of the other Christian churches, although they have a very limited presence.

With regard to Islamic communities, it should be noted that in Morocco the Sunni community constitutes the majority, and thus the teaching of Sunni Islam prevails in comparison to other sub-groups of the same religion.

The religious geography of Morocco has implications for the provision of religious instruction in state schools. It is notable that only the Islamic, Jewish, and Catholic religions are permitted to be taught during school hours, with two hours per week allotted for instruction in the Islamic religion. The remaining religious minorities, despite their limited presence, may be provided with religious instruction outside of school hours. In particular, Christian creeds (evangelical churches, mainline Protestant churches, Orthodox churches) may be taught, but only outside Muslim state schools, in Christian dependencies. Other religions and beliefs, such as Hinduism and Buddhism, are not significantly represented in Morocco and thus do not have any specific structures in place. With regard to the question of belief organisations, it would appear that atheism in Morocco is not a free opi-

nion, but is tolerated if it remains discreet. The tenets of atheistic philosophy may be included in the curriculum as a component of general knowledge.

With regard to state schools, it is evident that there is a significant distinction in the status and recognition of the Islamic religion in comparison to the other two religions whose teachings are acknowledged.

In this regard, the right to select textbooks for Islam is attributed to the state in conjunction with religious authorities, whereas for the Jewish and Roman Catholic communities, this right is exclusively attributed to the religious authorities, who are the sole arbiters of their specific denominational teachings.

With regard to the definition of the syllabus content, the state defines this for Islam and determines it in a unified manner (i.e., the unity of Islamic education), while for other religions, it is defined by the religious authorities (this also applies to the other Christian minorities present, whose school structures are separate from the Islamic state ones).

The unity of Islamic education is articulated through the teaching of the Qur'an (specific verses and suras) and hadiths (the sayings of the Prophet), as well as Islamic customs and traditions. The objective of this discipline is to facilitate the pupil's comprehension of religious teachings, to provide instruction in religious practices, and to cultivate awareness of religious values.

It can be reasonably deduced that, with regard to the remuneration of teachers belonging to religious denominations, while those belonging to Islamic communities are remunerated by the state, those belonging to Islamic and Christian Catholic communities are remunerated by the religious authorities.

In relation to the rights of students, it is highlighted that, even in state schools, there is no option to opt out of the teaching of religion.

In Morocco, it is possible to establish public schools that are managed by religious organisations and adhere to the principles of the latter. This right is similarly acknowledged with respect to the two other religions.

Such educational establishments are subject to the general provisions governing public schools, and do not benefit from specific regulations pertaining to faith-oriented public schools.

Nevertheless, it should be noted that only those schools with a Muslim ethos can issue diplomas that are recognised by the state. This also has an impact on the choice of teachers, as the selection of personnel for Islamic schools is made by state institutions, whereas for all three religions of the book, teachers can be freely chosen by the schools without state intervention. Consequently, teachers may be dismissed if they fail to adhere to the established religious norms. This is particularly pertinent in Islamic schools, where the state may exert influence over the school's decision to exclude a teacher.

In contrast, private religious schools (Catholic, Islamic, Jewish) are not permitted to reject a student's enrolment on the basis of religion. The existence of a variety of educational institutions serves to constrain the potential for such occurrences.

It is notable that, in Morocco, while syllabuses and textbooks are provided free of charge to students of Jewish and Catholic faiths, those of the Muslim faith are not. This is despite the fact that private Muslim schools are also state-run.

With regard to the matter of funding, public institutions provide financial assistance to Muslim, Jewish and Roman Catholic faith-based schools. This support is manifested in the payment of teachers' salaries and the upkeep of school buildings for Islamic schools. In the case of Jewish and Roman Catholic schools, the financial assistance is evidenced in the provision of facilities and tax exemptions.

Concurrently, the personnel of Islamic schools receive training in public institutions, whereas those of Jewish and Catholic schools are trained by the same religious organisations. Consequently, it is only in the case of Islamic communities that the state provides financial support for this training. Moreover, only the diploma awarded by Islamic schools is officially recognized by the state, whereas this is not the case for Jewish and Roman Catholic schools.

b) Religious symbols in public schools

In regard to the presence of religious symbols in public schools, educators are entitled to display such symbols while delivering lectures. This also applies to Jewish or Christian (Catholic, Evangelical, Orthodox) teachers in their respective facilities.

The same principle applies to students. Any non-Muslim student enrolled in a Moroccan public school is permitted to wear symbols of their beliefs, although it is noteworthy that only Christian and Jewish students have access to dedicated teaching facilities. It is subsequently emphasised that public schools do not officially display any religious symbols.

c) Right to abstain from teaching and school attendance on religious holidays

In Morocco, teachers in public schools may refrain from giving classes on occasions of their RBO festivities. As Christians and Jews typically attend their own specific schools, it follows that teachers may enjoy their specific religious holidays. The same principle applies to students.

d) Student's right to obtain food that is not forbidden by religious rules

It is within the rights of students to receive food that is not forbidden by their religion. This right is particularly relevant in the context of the existence of Christian and Jewish minority schools. This right is not extended to other entities, such as religious organisations and Sikh communities.

4.4. Tunisia

4.4.1 Legal Analysis

By Ilaria Valenzi

The Tunisian school system provides that religion is taught in state schools and that this teaching falls under the category of teaching religions.

This school system is applicable to both state and public schools, which are obliged to implement the curriculum specific to state schools.

Following the 1991 school reform, the teaching of religion is now classified as part of the 'social area' of education, which also encompasses civic education and religious education. These subjects are taught separately with the objective of promoting tolerance and respect for diversity.

In particular, Article 53 of the Tunisian framework law on education and instruction in schools enshrines the values of freedom of belief to a significant extent (Framework Law No. 80 of 2002, approved on 23 July 2002, on education and instruction). The framework law specifies that lessons must be taught in social studies and the humanities, including religion. These lessons must enable students to attain knowledge that develops their critical faculties and helps them to understand the organisation and development of societies in economic, social, political and cultural terms. Furthermore, the legislation in question makes no reference to the religion of the majority of the Tunisian population, namely Islam.

However, at the level of implementing the law through ministerial directives, there is a complete absence of any consideration of the respective religious diversity that characterises Tunisian society. Islamic education is a mandatory component of the primary education curriculum, while Islamic thought is a subject taught at the secondary level. Students enrolled in public schools are required to attend one hour of instruction per week on the principles of Islam. Non-Muslim students are typically required to attend these courses, although they may apply for an exemption. The curriculum for secondary school students also includes references to the history of Judaism and Christianity. It is permitted for religious groups to operate public schools.

Religious instruction is conducted in two phases. The initial stage, which pertains to primary and secondary education, is designated as "Islamic Education." This stage is dedicated to the instruction of worship, the fundamental tenets of belief, and the principles of morality as a human value, as established by Islam. The second stage of religious instruction, which pertains to secondary education, is entitled "Islamic Thought." The objective of the programme is to foster critical thinking among students. Furthermore, Charfi advocated for the discontinuation of the integration of Islamic and civil education within the school curriculum.

In Tunisia, there is no recognition of religions other than the three monotheistic religions set forth in the holy books. This signifies that there is no authorization for the instruction of non-Muslims in their respective religious traditions within the confines of state-run educational institutions. Additionally, non-Muslim students are compelled to engage in the study of Islam. It is evident that the

instruction of religion is conducted within the established school schedule, with a weekly allotment of one hour, contingent upon the absence of a minimum student enrollment threshold. Furthermore, the appointment of religious education teachers is the responsibility of the state, and they are classified as civil servants. In state schools, these teachers are exclusively Islamic, and thus may be referred to as "Islamic teachers."

Nevertheless, it is conceivable that the other religions of the book may have faith-based public schools.

In Tunisia, there are nine Christian Catholic schools, two of which are located in the capital city, and which collectively serve approximately 6,000 students. These educational establishments were already in existence prior to Tunisia's independence, and Muslim students also attend them. In this instance, the Muslim religion is upheld by the educational establishments in question, which refrain from proselytising.

It is similarly conceivable that Jewish communities may possess their own private faith-based educational establishments.

A particularly anomalous situation exists in the territory of Djerba, where approximately 1,500 Tunisians of the Jewish religion reside, representing the largest community in the country and one of the oldest in the world. The Jewish population of Tunisia is estimated to be approximately 2,500 individuals. In this context, Djerba represents a territory of coexistence between Jews and Muslims.

In Djerba, a plan has been devised whereby Muslim and Jewish students in public schools will study secular subjects together, while Muslim students will attend Islamic education lessons and their Jewish classmates may choose to attend classes on religion at a Jewish school.

Furthermore, the aforementioned circumstances pertain to the students' right to opt out. Furthermore, while Muslim students are required to attend confessional lessons on Saturdays, their Jewish counterparts have the option of attending religious classes at a Jewish school.

Additionally, there is a Jewish school in Djerba that provides both secular and religious educational opportunities.

It has been reported by members of the Jewish community that students who attended the private Jewish school were unable to obtain a government-recognised certificate of identification confirming their status as students. Consequently, Jewish students are permitted to attend both secular and Jewish schools.

b. Religious Symbols

In state schools, teachers are permitted to wear religious symbols. In particular, the Minister of Education, in a statement dated 4 January 2003, invites male and female teachers, as well as all categories of educators and employees, to adhere to the customary attire in Tunisia. Furthermore, the statement reminds them of the significance of any garment linked to the country's identity and traditions. In consequence of this announcement, the Ministry of Education issued an official correspondence dated 9 September 2005, addressed to the inspectors of departments, the directors of regional centres for education and continuing education, the directors of primary and secondary

schools and institutes, and the directors of training centres. This communication requested detailed reports at the end of each quarter on cases of sectarian dress for men and women.

This right is also extended to students. However, a circular issued in 1997, which prohibited religious attire in higher education institutions, faced persistent civic and legal challenges until it was deemed unconstitutional in 2013. Only Islamic symbols can be officially displayed in public schools, which effectively precludes the display of religious symbols by religious minorities in schools.

c. Right to Refrain from Teaching and School Attendance on Religious Holidays

It is within the rights of teachers to abstain from their professional duties during the observance of their religious holidays. It should be noted that the aforementioned reference is limited to Islamic holidays.

With regard to students, those of the Jewish faith are denied their inherent right to school holidays during their holy days. In many cases, examinations are scheduled during these periods, which gives rise to one of two possible outcomes. Either students comply with the regulations of state educational institutions while contravening the rules governing the celebration of the Sabbath and other religious holidays, or they boycott examinations and classes scheduled on those days. The former situation constitutes a violation of their religious convictions, compelling them to contravene the teachings of their social and religious group. The latter situation directly contravenes their right to education (Article 292 of the Code of Civil Procedure prohibits acts against Jews, stating that 'on the Sabbath, Rosh Hashanah and Yom Kippur, as well as the first and last two days of Sukkot and Purim, and the final two days of Passover and Saba'ut, are considered holy days and religious occasions. Jewish students are permitted to take breaks on these days, and they are not required to take examinations on these days. " The aforementioned circumstances have resulted in a significant number of Jewish students and pupils being compelled to miss school, particularly in the case of those residing in Djerba, where a considerable proportion of Tunisian Jews continue to live (approximately 1,000 Tunisian). The resulting pressure faced by Jewish students and pupils may be a contributing factor to non-attendance at school, particularly in Djerba, where a significant proportion of Tunisian Jews continue to reside (approximately 1,000 Tunisian Jewish citizens are based in Djerba). However, this is often overlooked.

d. Student's right to obtain food that is not forbidden by religious rules

In addition, with regard to food, only students who are members of Islamic communities have the right to food that is not forbidden by their religious dietary rules.

4.5 Malta and Slovenia

4.5.1 Legal Analysis

By Ilaria Valenzi

The constitutional systems of Malta and Slovenia are markedly disparate.

In accordance with Article 2(3) of Malta's Constitution, it is stated that: "Religious instruction in the Roman Catholic Apostolic Faith shall be provided in all state schools as part of the compulsory education curriculum." This stipulation therefore determines that the Christian Catholic religion shall be taught in state schools.

By contrast, no analogous provision exists in Slovenia, where religious instruction is absent from state schools, but where teaching about religion is permitted.

This discrepancy in the legislative framework has ramifications for the treatment of religious minorities.

In Malta, there is no explicit prohibition against the teaching of minority religions in connection with subjects such as ethics, philosophy or history. However, a course on religion in state schools, understood as formal teaching, is only provided for the Roman Catholic Apostolic Religion. In Slovenia, the subject Religion and Ethics is optional for pupils in the 7th, 8th and 9th grades of primary schools and covers all religions, which are all treated equally.

In all cases, these lessons are conducted within the framework of the regular school timetable, albeit with a distinct schedule. In Malta, the standard allocation of time for religious education in public primary schools is two half-hour periods per week, amounting to one hour per week in total. In public secondary schools, the typical allotment is two forty-minute lessons per week, amounting to an aggregate of one hour and twenty minutes per week.

It is permitted for public schools, including those operated by religious organisations, to incorporate additional time for religious instruction. In the majority of Church-run primary schools, a brief daily lesson of a few minutes is held prior to the commencement of all other lessons.

In the Republic of Slovenia, the optional teaching of Religion and Ethics comprises one hour per week.

In neither case is a minimum number of students required for activation. While the Maltese system depends on the teaching of religion, the Slovenian system depends on the optional system, which is linked to the choice of the students. However, there is a lack of qualified teachers for this type of teaching.

With regard to remuneration, in Malta the state is responsible for the payment of salaries for religious education teachers, whereas in public schools the religious education teachers are remunerated by the schools themselves. Nevertheless, in public schools operated by the Catholic Church, all instructors, regardless of subject area, are compensated by the government as part of a compre-

hensive agreement between the Maltese state and the Holy See concerning the utilization and disposition of ecclesiastical property in Malta.

In Slovenia, the remuneration of teachers of the optional subject of religion and ethics is the responsibility of the state.

With regard to the right to be exempted from religious instruction, both countries, although for different reasons, recognise the fact that students may opt out.

In particular, Article 40(2) of the Maltese Constitution states that: No person shall be compelled to receive religious instruction or to demonstrate knowledge or competence in matters of religion. This applies to all individuals, regardless of age. However, in the case of individuals under the age of sixteen, the objection to such a requirement must be made by the person who, according to law, has authority over them. In any other case, the individual in question must object. It is provided that no such requirement shall be deemed inconsistent with this Article to the extent that knowledge, competence or education in a religion is required for the teaching of that religion, or for admission to the priesthood or to a religious order, or for other religious purposes. This exception applies except where it is shown that such a requirement is not reasonably justifiable in a democratic society.

Concurrently, Section 45 of the Education Act (Cap. 605 of the Laws of Malta) stipulates:

(1) It is the responsibility of the State to provide for the education and teaching of the Catholic religion in state schools for students whose parents have chosen to educate their children in that religion. Furthermore, the State is obliged to establish the curriculum for the education and teaching of that religion in such schools, in accordance with the provisions in this regard of the Ordinary Bishops of these islands. (2) The State shall provide for the education and teaching of the philosophy of life and ethics for those students whose parents have chosen not to instruct their children in the Catholic religion.

In the case of Slovenia, this right is a direct consequence of the facultative nature of religious instruction.

This right is applicable to students belonging to all religious minorities. In Malta, the legal framework does not impose any restrictions on students who do not belong to the Roman Catholic Church with regard to their participation in religious instruction. This implies that, in addition to the option of not attending, a non-Catholic may also elect to receive religious instruction. This is the case in both state schools and private faith-based schools.

b. Religious Symbols

In both Malta and Slovenia, teachers are permitted to wear religious symbols while engaged in the act of teaching. In the case of Slovenia, no specific provisions have been made in this regard, and this right is applicable to all minority religions. In Malta, however, all teachers of religion in public schools are required to be certified as 'suitable' by the Ordinary of the diocese. Consequently, it is highly unlikely that such teachers will be wearing a symbol of another religion. In Malta, there is only one Islamic school, and therefore it is reasonable to conclude that Islamic symbols may be worn in this educational establishment.

Furthermore, students of all religious minorities are also afforded the right to wear religious symbols.

In the case of the official display of religious symbols in schools, however, the crucifix is displayed in all public schools in Malta. Furthermore, the crucifix is displayed in all church-run schools and the majority of other private (non-church-run) schools.

In contrast to this, in Slovenia, public schools do not display religious symbols, while different regulations apply to private religious schools that are based on a religious ethos.

In Malta, the sole Islamic public school permits the display of religious symbols of that religion, whereas in Slovenia, there is no prohibition on all religious minorities that establish public schools from displaying their symbols.

A further exemption is made for religious holidays. In the Maltese system, Section 5 of the National Holidays and Other Public Holidays Act (Cap. 252 of the Laws of Malta) stipulates that all Sundays that are Catholic holidays are public holidays, on which both public and public schools are closed (1 January New Year's Day; 10 February Feast of St. Paul's Shipwreck; 19 March Feast of St. Joseph; 29 June Feast of the Assumption; 8 December Feast of the Immaculate Conception; 15 August Feast of the Nativity; 25 December Christmas Day). Additionally, the following dates are considered national holidays: 19 March (Feast of St. Joseph), Good Friday, 1 May (Workers' Day), 29 June (Feast of St. Peter and St. Paul), 15 August (Feast of the Assumption), 8 December (Feast of the Immaculate Conception), and 25 December (Christmas Day).

In consequence of the aforementioned provisions, teachers are excused from their professional duties on both religious and secular feast days.

With regard to public schools, however, this exemption may be contingent upon the specific terms of the teacher's contract of employment. A comparable system is in place in Slovenia, whereby this exemption is only applicable to public schools. In the case of public schools, a system of generic holiday requests is not uncommon, even in instances where the reason for the request may be of a religious nature.

A comparable system is in place for students. In Malta, students are excused from attending school on public holidays (which are also Catholic holidays), whereas in Slovenia this right is only recognized in private religious schools.

Consequently, students belonging to a religious minority who do not have their holidays acknowledged are absent from school for several days in Malta to align with their holidays (this is the case in both public and private religious schools) and this is typically accepted. A similar situation exists in Slovenia.

d. Student's right to obtain food that is not forbidden by religious rules

The right of students to receive food that is not forbidden by the dietary rules of their religion is not recognised in state schools in either Malta or Slovenia. This right is upheld in faith-based religious schools, which have been established by religious minorities.

4.5.2 Sociological Analysis

By Alessia Passarelli and Davide N. Carnevale

4.5.2.1 Malta

a) Education

In Malta's school system one or more specific religions/beliefs are taught, but 60% of respondents say their religion is not taught in public schools. Negative assessments come in particular from representative of Humanism (they specified this is not a religion), Romanian Orthodox Church and Bahá'í Faith. In private schools, however, the percentage grows, 80% of minority religions are not taught. In general, however, none of the respondents are really satisfied with the teaching of religion at public and private schools. As the Bahá'í respondent underlined: "In all schools in Malta, only Catholicism is taught, with exception of one or two that allow the Islamic Imam and teachers to visit the particular school to teach the Muslim students attending there. It would be better if an all-round spiritual education covering all Faiths is taught, giving freedom of choice to the individual."

The Roman Catholic Church is the only RBO that has more than 70% of students that attend religion classes at both public and private schools, the others have much lower numbers that are around 10% and 30% or even less than 10%. 3 of the respondents affirm that children's parents are strongly oriented towards enrolling their children in a mixed school and the other two respondents are moderately oriented to do the same.

According to the questionnaires, there is no strong discrimination against teachers or students enrolled in these RBOs in public schools, although it sometimes happens for students belonging to Hinduism or to the Romanian Orthodox Church. This latter perceives discriminations related to the content of teaching; even in private schools the situation is practically the same. The Romanian Orthodox Church and Bahá'í Faith have rules concerning the consumption of food, but they rarely or never feel discriminated against when requesting in public schools where their children are enrolled to respect their religious rules on food consumption, the school allowing students to bring and consume their own food in school.

The only RBO able to open and manage its own schools, reflecting its principles and prescriptions, is the Roman Catholic Church: more than 30 of these private schools exist and they are financially supported by the State. Teachers in these private schools are chosen through a procedure involving both the State and the RBO.

Generally, students have the right to opt out from the teaching of religion/belief. If they opt out from the teaching of/about religion, students are obliged to attend another course, for example ethics. Only the Hindu respondents affirms to be completely satisfied by this possibility.

4.5.2.2 Slovenia

a) Education

According to respondents, the Slovenian school system does not teach religion as a specific subject. It is mostly mentioned during history class and other disciplines. Buddhist representatives are dissatisfied with the existing teaching system, while Islamic representatives are not.

The majority of private schools do not teach religion, and Slovenia generally has fewer private schools compared to public schools. An Islamic respondent affirms that his RO couldn't open and manage its own schools reflecting its principles and prescriptions. Buddhist Communities are satisfied with the religion teaching system in private schools, but estimate that probably less than 10% of students study religion within their school education. Members of these two ROs are not at all or weakly oriented toward enrolling their children in private schools. For both respondents, it would be fairly important to introduce religious teaching in schools and to have teachings regarding different religions/beliefs in both public or private schools.

Students and/or teachers affiliated to both ROs sometimes face forms of discrimination in public schools due to their religion, but Buddhist students and/or teachers rarely face these discriminations. In the Islamic religion, there are rules regarding food, and sometimes parents belonging to this RO face issues or discrimination when requesting public schools to respect their religious rules on food consumption.

4.5.3 Comparative Remarks

By Anna Parrilli

a) RE in public schools.

The countries considered in the research can be divided into two groups. In Malta, Israel, Morocco and Tunisia, RE is part of the education provided by public schools as teaching of religion. In Slovenian schools, classes of Religion and Ethics and Civic Patriotic Education and Ethics are also taught. The former is facultative in primary schools and upper secondary school; the latter is compulsory and is taught in the 7th, 8th and 9th year of grammar school. In Malta, only the majority religion is taught in public school. In Tunisia, some general reference to Christianity and Judaism are introduced in the secondary school. In Israel, two separate public schools systems exist for the Jewish and the Arab communities. Jewish public schools are of two types: state-secular schools (mamlachti), state-religious schools (mamlachti dati). In state-secular schools, RE is taught as an independent subject. Bible lessons are mandatory, and they are taught from a literary perspective. Israeli religious-State schools, instead, provide confessional RE in Judaism. Finally, Israeli Arab schools adapt the curricula to the religion of the enrolled students (Christians or Muslims). According to international standards of FoRB protection, the teaching of a particular religion should not be imposed on students who do not wish to receive it. While in Malta and Tunisia, students can be exempted from RE, neither in Morocco, nor in Israel (in State-religious schools) pupils can exercise their right to

exemption from confessional RE. In Tunisia, the opt-out provision applies to Christian and Jewish pupils only.

b) Religious symbols in public schools

In Slovenia, there are no specific provisions regulating the use of religious symbols in public places; however, the prohibition to display religious symbols in schools is implicit in the State education act (1996), which forbids any religious activity at school. In Israel, there are no restriction on the display of religious symbols in schools and there are no laws regulating this matter. The star of David is exposed as national symbol, not a religious one. Moreover, at the entry of every class, there is a mezuza (doorpost) which contains some verses of the Torah. In Malta, Morocco and Tunisia the symbols of the religious majority are displayed. In all the countries, both students and teachers can wear religious symbols.

c) Religious holidays in public schools

In Slovenia, Malta and Tunisia, the right to refrain from teaching/attending public school on religious holidays is not recognized to RBMs, neither to teachers nor to students. In Israel, instead, this right is granted to the State-recognized RMs.

d) Religious dietary in public schools

Malta, Slovenia, Morocco and Tunisia have not formalized the right of students to receive food not prohibited by their own religious rules in school canteens. Israel's public schools canteen must provide kosher food.

e) Opening and managing faith-based private schools

In all the countries considered, religious groups can open and manage private faith-based schools. In Israel, independent faith-based schools for ultra-Orthodox Jews are funded by the State. Mainly devoted to the study of the Torah, these institutions enjoy full freedom in the management of the schools, the enrollment of teachers and the choice of school curricula and textbooks.

5. Conclusions and Recommendations

By Ilaria Valenzi

The REMiMESo research project draws inspiration from the international standards of protection in the area of religious freedom, particularly with regard to the safeguarding of RMs and their members. This pertains to the notions of respect and the advancement of RMs and their entitlements. In particular, while the concept of respect has an immediately perceptible legal value, referring to the non-violation of national laws and international norms on the equality and non-discrimination of individuals on the basis of religious affiliation, the second is more challenging to define. The concept of promotion is inextricably linked to the right to diversity, including religious diversity. It concerns the capacity of states to implement legislative and social measures that facilitate the growth of RMs and their involvement in the political, social, and cultural life of a country. The concept of promotion thus tends to value the distinctive characteristics of diverse minority religious traditions and to facilitate their development and expression, while upholding the limits of public order and fundamental rights established at the national and supranational levels. The scope and extent of a 'right-duty' of promotion and the corresponding obligations assigned to states are subjects of ongoing scholarly debate. (S. Ferrari, *Sette domande sui diritti delle minoranze di religione e di convinzione e sulla loro misurazione*, in *Stato, Chiese e pluralismo confessionale - statochiese.it*-, 2024, n. 8; S. Ferrari, *The Protection and Promotion of Religious Minorities in the EU Countries. A Perspective from Law and Religion*, in M. Ventura (ed.), *The legal status of old and new religious minorities in the European Union*, Comares, 2021). It is beyond question that individuals should not be discriminated against on the basis of their religious affiliation. Nevertheless, this principle must be confronted with at least two aspects. The first issue pertains to the growing secularisation of contemporary legal systems. This phenomenon has an impact on the structure of the relationship between civil law and religious rights. This fact is particularly evident in the two areas of analysis addressed in this report, which pertain closely to the rights of RMs, particularly in the context of personal status and religiously oriented education. However, the secularisation of legal systems is also associated with the secularisation of certain religious principles, which become state law and, as such, are generally applicable to all citizens. One example of this is the incorporation of holidays of majority religious denominations into state law, which establishes them as secular norms for all.

However, a second aspect of this phenomenon is that the process of secularisation of state law can take different forms when it encounters territorial situations where religious traditions remain sufficiently robust. In such instances, a multiplicity of scenarios may emerge. One may consider the case of Tunisia, where the nationalisation of marriage and family law is accompanied by a judicial interpretation that is traditional and therefore significantly influenced by Islamic law. One might also

consider the case of Morocco, where the rules on personal status in civil law are effectively the incorporation of Islamic law into state law. It is also pertinent to consider the Israeli case, where, in conjunction with the millet institution, the celebration of religious marriage constitutes the only legally recognized form. In all these cases, the right to promote RMs is tested and restricted by the law of the State, either through direct reference to the legal traditions of the majority or through the recognition of a legal status only for certain RMs.

Furthermore, the European context allows for an analysis of the various forms of cooperation between the state and religious denominations. This is particularly evident in the two countries on the northern shore of the Mediterranean that are the focus of the REMiMESo project. The Constitution of Malta recognizes the Catholic religion as the state religion. Furthermore, the religious affiliation of the majority of citizens lends support to this assertion. The Maltese system, however, provides for the possibility of reaching agreements with religious minorities in the country, thus providing a counterbalance to the numerous rights that are granted *de plano* to the religious majority. Nevertheless, this potential must be enhanced, as there are few religious denominations that have formally recognized certain rights through an agreement. Conversely, Slovenia adheres to a separatist model, wherein the religious phenomenon is treated equally across the board, irrespective of the religion in question. Furthermore, due to its historical experience with atheistic imposition, which is now obsolete, Slovenia persists in maintaining a minimal level of collaboration with religious organisations (RBOs), without differentiating between them in a detrimental manner based on their numerical size or the duration of their presence in the country. This then gives rise to the question of whether the non-recognition of the civil effects of religious marriage in favour of any denomination is respectful of the principle of promoting the particularities of religious minorities. The rule is equal and does not discriminate or violate the principle of equality.

When viewed in the context of the entire situation, the RM's level of health does not appear to be satisfactory. This finding emerges from the analysis conducted on the selected policy areas previously outlined. A cursory examination of the data suggests that the least discriminatory situations for the RMs are those that have existed from the outset in the areas under consideration. This is evident from the analysis of all countries on the southern shore of the Mediterranean, where the presence of the "three religions of the Book" or Abrahamic religions has resulted in legal solutions that facilitate coexistence and recognition. One may consider the institution of marriage in Israel, which is contingent upon individuals' religious legal statuses. It is also accurate to note that within the majority religion, there is a risk of discrimination for non-Orthodox currents, whose religious marriage is not recognized by rabbinical courts. In Morocco, on the other hand, members of the Jewish community are afforded specific rights as a historically established religion, a status that is also extended to the Catholic Church. Similarly, in Tunisia, the Jewish community of Djerba, the oldest Jewish community outside of Israel, enjoys a distinctive status and has pioneered techniques of coexistence through reciprocal recognition of legal status.

The issue then arises for the prospective new RMs, which lack legal recognition and, consequently, even the recognition of personal and family statutes, where this system is provided for, or lack specific statutes linked to their legal recognition by the state. A similar situation pertains with regard to religious education. The responses from the legal experts who participated in the survey do not indicate any form of extension of protection for representatives of new religious minorities. Conversely, in certain instances, such as in Morocco, atheist positions encounter additional challenges. While these are largely tolerated, they are not openly expressed. These countries have significant

majorities of religious denominations, yet fail to meet international standards in this regard. Tunisia also presents a problematic situation, where the transformation of matrimonial and family law to a civil standard has not been as protective as it could have been. In practice, the interpretation of norms according to traditional Islamic law thwarts the effort to secularise law in this country and constitutes a limitation to the rights of religious minorities.

The analysis of specific policy areas also reveals a paucity of attention paid to the emergence of new religious presences and the position of belief organisations.

From the outset, it is already apparent that the subject of marriage and family rights has been addressed. Nevertheless, it is possible that some may endorse the aforementioned conclusions.. It is notable that both Morocco and Israel do not provide for the legal recognition of marriages that are not those celebrated by recognized religious communities. The primacy of religious law over state law is evident in this context, as it is in instances where the state has made different choices, as in Tunisia. In Malta, Catholic marriages are afforded specific protection, whereas in Slovenia, the state does not recognize any civil effect to religious marriages.

The question of interreligious marriages is also subject to the principles of the majority religious law in some countries. This is exemplified by the legal systems of Israel and Morocco, which may lead to the differentiation of rights and responsibilities on the basis of religion between members of different denominations and between men and women. Furthermore, there are discrepancies in the manner of dissolution of marriage. In Israel, the dissolution of marriage is only possible through the courts of the RMs and in accordance with their rites. In contrast, Moroccan law, which is fully inspired by Islamic principles, applies to all citizens, regardless of their religion, with the exception of the Jewish minority, as previously outlined. By contrast, in Slovenia and Tunisia, divorce is regulated by the state. This aspect of Tunisian legislation may be regarded as the element that brings it closest to a correspondence between the new civil law and its correct application, through the abolition of repudiation and equal access to divorce for men and women. The clarity of the legislation on this point is undoubtedly beneficial in this respect.

A notable distinction can be observed in the approach between the North and South with regard to the dowry. In the Northern shore countries, this institution has been abolished, whereas in Morocco and Tunisia, it constitutes an essential requirement for the validity of the marriage. Furthermore, there is a convergence between the religious and civil regulations pertaining to this matter. With regard to Israel, the millet institution may be applied or the parties may opt for state regulation, as is also the case with inheritance. In this regard, Morocco and Tunisia maintain a close relationship with regard to matters of inheritance and religious law (although in Tunisia the matter is a matter of state law). The matter of adoption also follows similar considerations. In Israel, Morocco and Tunisia, religion plays a foundational role in the implementation of these or analogous institutions. In Morocco, in particular, non-Muslims are subject to discrimination in that they are unable to adopt or to gain custody of the child, an institution that is subject to full Islamic law. Similarly, in Israel, adopters and adoptees are required to adhere to the same religion. It is evident that there is a risk of unequal treatment on religious and gender grounds. It can therefore be concluded that in the area of marriage and family, religious rights still enjoy essential importance and that this fact risks placing the RMs in a situation of discrimination. While state law appears to be more protective for them, if it ends up being completely superimposed on religious law or its interpretation is oriented in that direction, the discriminatory effect is multiplied for all citizens.

With regard to the question of religious instruction in schools, it is evident that the majority of countries, with the exception of Slovenia, provide for denominational teaching that is oriented towards the religion that is the majority in that country. The primary concern regarding the safeguarding of RMs pertains to the feasibility of opting out of this instruction. This option is currently available in Malta and Tunisia, which demonstrate alignment with prevalent systems that formally adhere to international standards. However, in Tunisia, this is only permitted for historical RMs. A noteworthy aspect of this subject is the situation in Israel, where state schools are divided into secular and religious institutions, resulting in a shift in the perspective of religious teaching. While both are compulsory, the religious subject matter differs between the two. In the first case, it mainly concerns cultural, social and political issues, whereas in the second case, it is typically biblical. The Israeli system is further distinguished by the provision of substantial state financial support for private religious schools of the Orthodox type, which are not required to offer a comprehensive curriculum of general subjects. Arab public schools, in turn, provide instruction in Islam and Christianity. In addition to the lack of protection for other RMs and the possibility of opting out, the diversity of religious education offered by the state is a further factor. While this approach may appear to accommodate cultural and religious differences with a solution that is acceptable to all, it could also potentially exacerbate divisions based on religion, which could in turn lead to a further weakening of social cohesion in a country that is already highly divided.

It is evident that while RBOs are permitted to establish private faith-based educational institutions in all REMiMESo countries, this measure is insufficient to address the systemic discrepancies that exist between these institutions and state schools. In other words, the rights of individuals are contingent upon the existence of religiously oriented public schools (which are scarce in many contexts) and the social, economic, and territorial feasibility of attending them. It is, in fact, the system of public schools that should guarantee equality and non-discrimination, as well as the right to diversity for those belonging to RMs. However, this element remains extremely tenuous.

The following recommendations are derived from this excursion and pertain to certain general aspects concerning the relationship between states and the religious phenomenon.

In contexts where the influence of majority religious law is particularly felt, it is necessary, in order to adhere to international standards, to allow individuals of other religions to opt out. Similarly, in contexts where state law has become prevalent but religious traditions continue to play a preponderant role, it is imperative that jurisprudential interpretation aligns with the dictates of the law rather than being influenced by traditions of religious origin. Conversely, in instances where the state system permits the formation of agreements with RMs, such agreements must be implemented in both quantitative and qualitative terms. From a thematic perspective, excessive diversification in the treatment of citizens on the basis of their professed religion, or conversely, the uniform application of the principles characteristic of the religious majority to all, represents a risk factor for the exacerbation of social divisions and the inability to construct cohesive societies capable of integrating diversity, including religious diversity.

6. Policy recommendations

By Michele Brignone

In his book *Il Mediterraneo e l'Italia* ("The Mediterranean Sea and Italy"), Italian historian Egidio Ivetic describes Mediterranean culture and history as the combination of six components: classical antiquity and its revivals, Oriental and Byzantine-Orthodox Christianity, Latin Christianity, Islam (mainly Sunni), Judaism, secularity and modernity. Interestingly, Ivetic highlights that these components do not delineate a diachronic development. Modernity and secularity are not the last stage of a historical progression, but one of the traditions that coexist synchronically in today's Mediterranean basin. In order to understand the processes occurring in this space, one has therefore to take stock of this multifaceted legacy. This report is a compelling confirmation of Ivetic's argument from a legal standpoint. The case studies it provides demonstrate how different traditions continue to shape the legal landscape of several Mediterranean countries. Traditions do not just live side by side but are deeply intertwined. Just to mention some examples analysed in the report, when it comes to family law the pluralist Israeli legal system is heir to the Ottoman millet system; the Moroccan personal status code draws from Sunni Maliki jurisprudence, but has been revised in light of modern values; Tunisian family law, on the other hand, is apparently secular, but is still influenced by Islamic law, especially as far as inheritance is concerned; in Maltese law, "certain provisions of the Civil Code appear to be neutral with regard to religious affiliation. Nevertheless, they are in accordance with the stipulations set forth in the Canonical Code of Canon Law of the Catholic Church." For these reasons, the report correctly underscores that "It is erroneous to assume that all aspects of secularity are uniform. Even societies that are ostensibly secular may have religious foundations. Furthermore, societies that espouse secularised rights may be more or less directly influenced by religious norms."

The persistence of religious-based legal systems or legal codes often goes hand in hand with various forms of discrimination against minorities, as numerous sections of this report illustrate. Protecting and promoting the right to freedom of religion and belief (FoRB), a goal that the Italian Government has identified as a significant element of its foreign policy, is therefore important for at least two reasons: it can contribute to improve the condition of discriminated minorities and it enables Italy to weigh in on issues it is well positioned to deal with on account of its complex history of Church-State relations and interaction with different cultural and religious traditions. However, some considerations should be borne in mind when it comes to designing policies and possible actions.

First of all, there is no one-size-fits-all solution to situations where the right to FoRB is denied or constrained. Nor FoRB can be the object of an undifferentiated appeal aimed at achieving compliance between local situations and the standards set by international charters. This approach risks creating the very social tensions and divisions it is meant to overcome. Promotion of the right to FoRB requires pre-legal actions and initiatives that can contribute to creating mutual comprehension and trust between different religious communities. Interreligious dialogue can play a crucial role in this sense. To be sure, in the long run, informal settlements cannot replace legal guarantees,

but provisions enshrined in law do not single-handedly safeguard minorities against discrimination and are destined to remain dead letter if they are not preceded and supported by a socially shared sense of mutual respect.

Secondly, religious freedom advocacy should not be limited to specific groups or minorities. The Middle East and North Africa have a long history of religious groups being protected by European powers. This arrangement may have brought immediate benefits to some minorities, but eventually proved detrimental. It transformed local disputes in international crisis, it set the stage for the scapegoating of minorities as foreign agents and hindered the development of modern equal citizenship. There is no denying that violations of the right to FoRB are not equally distributed among the five countries considered in this report and are not to be found equally in all societies regardless of their predominant religious affiliation. There are instead “significant differences that underscore the necessity for policy and legislative reforms.” But an emphasis should be placed on the wider benefits that FoRB entails for society as a whole.

A third remark concerns Muslim-majority countries more specifically. It is well known that the discourse of human rights as enshrined in the Universal Declaration of Human Rights is often contested as a Western construct in Muslim societies. Over the last decade, however, there has been a proliferation of Islamic charters, declarations and documents that signals the attempt to frame human rights in a way that can resonate with a Muslim audience. The vocabulary they adopted sometimes ends up skirting the knottiest issues – like a broad notion of religious freedom, and not its interpretation as mere freedom of worship, or actual equality between different religious communities – but sometimes it represents a step forward compared to traditional Islamic jurisprudence. Claims about violations of RMS’ rights should be raised taking this vocabulary into consideration. The notion of citizenship is a case in point. Citizenship is often conjured up by some Islamic institutions to convey their rebuttal of extremist views that endorse the subjugation of non-Muslim people and communities on religious ground. But how does citizenship fit in with the discriminations that still exists in some legal systems? A more in-depth reflection deserves to be encouraged on these issues by creating opportunities for dialogue and exchange.

If only because of its geographical position, Italy is called upon to play a mediating role between the different traditions that make up the Mediterranean region. It has to do so in a dynamic way, helping to shape positively their increasingly closer, and potentially problematic, interactions. The more it will succeed in this endeavour, the more it will be able to translate its geographical centrality into cultural and political relevance.