



Religion and our Laws

An overview of the way in which our constitution and laws make reference to religion

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Introduction



- All the laws were found in PDF format on www.justiceservices.gov.mt
- Used some tools to convert PDFs to text for easier searching
- Searched for terms like: religion, church, ecclesiastic, bishop, etc.

The Constitution

Article 2 (Religion)

1. The religion of Malta is the Roman Catholic Apostolic Religion.
2. The authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.
3. Religious teaching of the Roman Catholic Apostolic Faith shall be provided in all State schools as part of compulsory education.



The Constitution

Article 40 (Freedom of Religion)

1. All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship.
2. No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if, in the case of a person who has not attained the age of sixteen years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto: Provided that no such requirement shall be held to be inconsistent with or in contravention of this article to the extent that the knowledge of, or the proficiency or instruction in, religion is required for the teaching of such religion, or for admission to the priesthood or to a religious order, or for other religious purposes, and except so far as that requirement is shown not to be reasonably justifiable in a democratic society.
3. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub-article (1), to the extent that the law in question makes provision that is reasonably required in the interests of public safety, public order, public morality or decency, public health, or the protection of the rights and freedoms of others, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.

The Constitution

Article 45 (Non-Discrimination)

Several items prohibiting non-discrimination, followed by:

(9) A requirement, however made, that the Roman Catholic Apostolic Religion shall be taught by a person professing that religion shall not be held to be inconsistent with or in contravention of this article.

(Primary school teachers teach all subjects including religion)



Chapter 9: The Criminal Code

Title IV: Of crimes against the religious sentiment

- 163. Whosoever by words, gestures, written matter, whether printed or not, or pictures or by some other visible means, publicly vilifies the Roman Catholic Apostolic Religion which is the religion of Malta, or gives offence to the Roman Catholic Apostolic Religion by vilifying those who profess such religion or its ministers, or anything which forms the object of, or is consecrated to, or is necessarily destined for Roman Catholic worship, shall, on conviction, be liable to imprisonment for a term from one to six months.



Chapter 9: The Criminal Code

Title IV: Of crimes against the religious sentiment

- 164. Whosoever commits any of the acts referred to in the last preceding article against any cult tolerated by law, shall, on conviction, be liable to imprisonment for a term from one to three months.
- 165. (1) Whosoever impedes or disturbs the performance of any function, ceremony or religious service of the Roman Catholic Apostolic Religion or of any other religion tolerated by law, which is carried out with the assistance of a minister of religion or in any place of worship or in any public place or place open to the public shall, on conviction, be liable to imprisonment for a term not exceeding one year.

Chapter 9: The Criminal Code

PART III Title I Sub-title I: On Witnesses

(repeated in Chapter 12: Code of Organization and Civil Procedure)

- 631. (1) A witness professing the Roman Catholic faith shall be sworn according to the custom of those who belong to that faith; and a witness not professing that faith shall be sworn in the manner which he considers most binding on his conscience.
- Also Chapter 245: The Affirmations Act:
Wherever an oath is required by any law, a non-religious affirmation is automatically accepted and has the same meaning etc. The wording is identical except “I affirm” instead of “I swear”, and the words “So help me God” are removed. Note that there is no mention of kissing of crucifixes.



Chapter 255: Marriage Act

This is BEFORE the divorce act

- 23. (1) A decision which has become executive, given by a tribunal, and declaring the nullity of a catholic marriage shall, where one of the parties is domiciled in, or a citizen of, Malta, and subject to the provisions of article 24 be recognised and upon its registration in accordance with the said article 24 shall have effect as if it were a decision by a court and which has become res judicata.
- (2) An executive decision given by a tribunal and upholding the validity of a catholic marriage shall, where one of the parties is domiciled in, or a citizen of, Malta, and subject to the provisions of article 24 be recognised and upon its registration in accordance with the said article 24 shall have effect as if it were a decision by a court and which has become res judicata and as such shall not be subject to re-examination on the same grounds.

279: Public Collections Act

- Excludes the church collection from this act.
- Lists “the advancement of religion” as a charitable act.
- Similarly, Chapter 331: Trusts and Trustees Act section 2.1 establishes “the advancement of religion” as a charitable act.
- Chapter 492: Voluntary Organisations Act “social purpose” includes “the advancement of religion”



319: European Convention Act



- 4. The Government of Malta, having regard to Article 64 of the Convention, declares that the principle affirmed in the second sentence of Article 2 of the Protocol is accepted by Malta only in so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure, having regard to the fact that the population of Malta is overwhelmingly Roman Catholic.

327: Education Act

20. (1) Any person shall have the right to apply to the Minister for the grant of a licence to establish a school.

(2) The Minister shall grant the licence mentioned in sub-article (1) where -

a) the applicant is the Catholic Church or any other voluntary society, religious or otherwise, of a non-profit making character; and

b) the school conforms with the national minimum conditions.

(3) In the case of any other application for a licence under this article, being an application not falling under the provisions of sub-article (2), the Minister may grant the licence if he deems this to be in the public interest.

47.(3) It shall be the duty of the Minister to provide for the education and teaching of the catholic religion in State schools and to establish the curriculum for the education and teaching of that religion in those schools according to the dispositions in this regard of the Bishops in Ordinary of these Islands.

(5) The parents of any minor will have the right to opt that the minor should not receive instruction in the catholic religion.

327: Education Act

- All of Schedule III (Article 84) establishing the Faculty of Theology
- This is an agreement between Malta and the Vatican establishing the faculty of theology. Among other things it places the department of Philosophy under this faculty, and establishes that the archbishop calls the shots while the taxpayers foot the bills.

350: Broadcasting Act

- 13.2 (a) that nothing is included in the programmes which offends against religious sentiment, good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (3) The Authority shall ensure that, for the continued operation of the licence of a community radio service, the views and expressions of the licensee or of particular persons or bodies, on religious matters or on matters which are of political or industrial controversy or relate to current public policy do not predominate.



415: Copyright Act

- Copyright exemption for:

9.(n) the reproduction, translation, distribution or communication to the public of a work for use during religious celebrations or official celebrations organized by a public authority;



440: Data Protection Act

- 14. Any body of persons or other entity not being a commercial body or entity, with political, philosophical, religious or trade union objects may, in the course of its legitimate activities and with appropriate guarantees, process sensitive personal data concerning the members of the respective body or entity and such other persons who by reason of the objects of the body or entity have regular contact therewith:
- Provided that sensitive personal data may be provided to a third party only if the data subject explicitly consents thereto.

"sensitive personal data" means personal data that reveals race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, health, or sex life;



497: Public Administration Act



- 19. Public employees shall not harass or discriminate in work practices on the ground of sex, marital status, pregnancy, age, race, colour, nationality, physical or intellectual impairment, sexual preference, or religious, political or other convictions / allegiances when dealing with their colleagues and members of the public.

Others

- 358: Ecclesiastical Entities (Properties) Act joint office, transfer of church properties to the government.
- 001: Ecclesiastical Courts (Constitution and Jurisdiction)
Says that the ecclesiastical courts have no temporal jurisdiction *except where a law specifies otherwise*, and that clergy are subject to civil law

Other laws



- Several laws which prohibit discrimination based on religion, race, political views, union membership etc. were ignored
- Various tax exemptions for items of a religious nature, eg. In 395: Customs and Excise Tax Act and 406: Value Added Tax Act