

CONSTITUTIONAL PATTERNS IN DETERMINING THE STATE'S POSITION ON RELIGION

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Munir Hmood Dakheel , Ammar Turki Atiya , Constitutional Patterns In Determining
The State's Position On Religion , Palarch's Journal Of Archaeology Of
Egypt/Egyptology 18(7). ISSN 1567-214x.

Key Words: Constitution Religion Freedom Belief Protection.

ABSTRACT:

Religious freedom has become one of the most important rights and freedoms recognized at the level of national constitutions. Many of them explicitly acknowledge that the freedom of belief is absolute. Most constitutional design processes will have to consider the problem of religion–state relations. There are particularly important constitutional designs in majority countries, religiously diverse societies and societies where there have historically been tensions between religious and secular authorities. The constitution is regulating the relationship between the state and religion, between civil and religious authorities, and between secular and sacred codes of law, has historically been, and continues to be, one of the main functions of a constitution. Another important function of a constitution is to ensure peace and justice between all members of society, even in societies that are marked by deep religious divisions.

1. INTRODUCTION:

Throughout history, many nations have based their close compatibility on Religious and civil authorities, and almost all pre-modern societies had founded it. Understand legitimate political authority over divine goods The cult of the emperor, combining theocracy and absolute monarchy, was a characteristic Ancient societies. The city states were in Greco-Roman times Their civil gods, priests, shrines, and religious institutions. It was considered an integral part of the state constitution. Kingdoms Principalities and republics were largely Western Christianity in the Middle Ages. Integrated into a transnational structure of religious authority headed by Dad. In the Islamic world, the legal system has traditionally had a religious base. The

roles of caliph and sultan are often combined into one person. We can say that there are three established and known constitutional patterns that determine the relationship between the state and religion. There are countries that adopt an official state religion, and countries that adopt the principle of separating religion from the state, and the third type are countries that adopt the principle of cooperation, and through these constitutional patterns we will show the extent of the impact of the practice of religious rituals.

The truth is that a person is a human being with his spiritual beliefs that he believes in as the hereafter, reward and punishment according to the beliefs in which he believes and practices the religious rituals that these religions require of him. And the state, in complete contrast to that, is a political entity (moral / legal) that does not practice religious rites for which the Creator can hold them accountable in the hereafter, and therefore we cannot say that there is a believing state and an infidel state because the state is one of its components the people in which the believer and the infidel, as well as other economic institutions We should not say that there is an unbelieving company and another that is insured because political or economic entities differ from the human entity. Belief in the occult is a private affair that the state does not sponsor in any way. The state is for everyone, and this is what many countries in Europe, America and some countries of the world have pursued. The third is like Lebanon, and this is how it becomes clear to us that 128 of the 192 countries in the world have no official religion for the state, and the seven largest in terms of area in the world are (Russia, Canada, China, the United States, Brazil, Australia, India) Non-religious countries. The state, as a legal person, has a religion and does not practice the rituals required by that religion, but rather individuals who profess a religion or religions practice their rituals and rituals, but due to the inability of the state or its members to distinguish themselves from others, they attribute their state to the religion of the majority of its population to be a source of distinction.

1:2 States Have An Official Religion

The state's adoption of an official religion, which the constitutional texts of that state disclose explicitly or implicitly, is a pattern of the state's relationship with religions, and whatever it is, this adoption has implications for freedom of belief and then on the practice of religious rituals, whether negatively or positively. Many of the countries that adopt such a system have shown tolerance and recognition of other religions within the limits of what they believe, provided that they do not violate the public order and public morals in that country, and that they do not resent the preferential treatment of the state's religion over their beliefs. In this table, we will review the positions of some countries whose constitutions adopt the official religion of the state, as follows:

State	The constitutional text related to the state's religion
Constitution of the Republic of Iraq (2005)	Article (2 / First): "Islam is the official religion of the state and it is a basic source for legislation."
Egypt (2014 constitution)	Article 2: "Islam is the religion of the state, Arabic is its official language, and the principles of Islamic law are the main source of legislation."
The Islamic Republic of Iran (1979 Constitution)	Article (12): "The Islamic religion of Iran is Islam, and the doctrine is the TwelverJa`fari school of thought and this article remains forever unchangeable. As for the other Islamic schools, which include the Hanafi, Shafi`i, Maliki,

	Hanbali, and Zaydi schools, they enjoy full respect, and the followers of these schools are free to perform Sectarian ceremonies according to their jurisprudence.
Greece (1975 constitution)	Article 3: The dominant religion in Greece is the Eastern Orthodox Church

In exchange for the explicit recognition of the country's official religion, the constitutions of some countries adopt different constitutional formulas to indicate their preference or favoritism for a specific religious institution, church, or specific religions. Some of the constitutions of Latin American countries indirectly indicate a preference for a specific religion without recognizing that religion that it prefers as its official religion, with an emphasis on freedom of worship and the practice of religious rites. The amended Argentine constitution of 1994 AD stipulated in Article (2) of it: “The federal government supports the Catholic Apostolic religion.” As for the amended Panamanian constitution of 1972 CE, it used a different formula in Article 35 of it: “All religions are free to convert. And the freedom to practice its religious rites without any restriction other than respect for Christian morals and public order, and the Catholic religion is the religion of the majority of Panamanians.

1:3 Separations Of Religion And State

In a society, the degree of political separation between the religion and the civil state is determined by the legal structures and prevalent legal views that define the proper relationship between organized religion and the state. Some countries prohibit the recognition of a particular religion as their official religion, and prohibit the establishment of any privileges based on that, and these countries are often called the name of the secular state (Secularism), and this separation is one of the patterns that may enhance belief according to the opinion of its adherents, and it allows leaving religion within the limits of practice Individualism, and it does not rise to dominate its financing or direct public authority, and therefore it is a personal individual need that the state does not interfere with except in the narrowest scope of its organization.

In France, the enactment of a law in 1905 CE, which decided to separate the churches from the state, is the end of the harmonic system. According to this law, religion was permanently separated from the civil authority by abolishing the general status of churches in France, which was called the Regime Des CultesReconnus. Article (2) of this law stipulates: “The French state guarantees religious freedoms and their practice.” . As for Article (3) of it, it stated: “The Republic does not recognize any worship, nor does it pay it or provide financial assistance, the budget for worship has been canceled, the head of state no longer names bishops, public institutions for worship are boiled over ...”. According to this law, the secular character was conferred on important parts of public life in France.

The Constitution of the United States of America is considered a secular document par excellence, as it begins with the phrase "we are the people of the United States" and the document does not contain any mention of the word God. As for the reference to the word religion in the constitution, it was used to emphasize non-discrimination between citizens on the basis of their beliefs. It came according to the Bill of Rights, and the sixth paragraph of the Constitution stipulates that it is not envisaged to conduct a religious test for anyone wishing to occupy any government position, and the first amendment stipulated that Congress will not in

any way legislate a law based on religion. The phrase “We Trust in God” was added as the slogan of the United States of America after the state of Florida adopted it on its flag, and that phrase was added to the American currency later (the US dollar) in the year 1782.

State	The constitutional text separating religion from the state
France (1958 constitution)	Article 1: "The French Republic is an indivisible, secular, democratic and social republic."
Turkey (1982 constitution)	Article (2): “The Republic of Turkey is a democratic, secular, and social state governed by the rule of law.”

1:3 The principle of cooperation

This category of countries does not adopt a specific religion, but they take the principle of cooperation and independence between the state and the religious institution as a feature to determine the nature of the relationship between religion and the state, and among these countries are Federal Germany and Spain, as the Spanish Constitution in force for 1978 states in Article (16): “It is not permissible. For any religion, obtain the status of the country's official religion: “1-Freedom of ideology, freedom of belief, and the practice of religious rites are guaranteed for individuals and sects without restrictions placed on their activities except what is necessary to maintain the public order that is protected by law. Ideology, religion or beliefs 3- There is no religion for the state. The public authorities take into account the religious beliefs of the Spanish society and establish an appropriate cooperative relationship with the Catholic Church and other religions. " In Federal Germany, the German constitution promulgated on May 23, 1949 and amended according to a law promulgated on July 26, 2002 stipulates the text in Article (4) of it: 1- Freedom of belief, freedom of conscience, and freedom of religious and belief affiliation are untouchable. 2- It should be ensured that there is no interference with the practice of religious rites. The Basic Law of the German Republic guarantees freedom of religions, as there are no officially persecuted religious minorities, and there are agreements between the federal government and the Catholic and Evangelical churches, as well as the federal government has concluded similar agreements with members of the Jewish community through the Central Council of Jews in Germany.

2: CONCLUSION:

Through our research, we reached the most important results and recommendations, which are as follows:

2:1 THE RESULTS:

- 1- There are three constitutional styles for determining the state’s position on religion: the state that adopts an official religion for it, the state that separates religion from the state, and the state that adopts the principle of cooperation between religion and state.
- 2- The Iraqi constitutional legislator in Article (42) regulated freedom of belief and confined itself to referring to that, at a time when the freedom of worship was detailed in Article (43), and it is also noted that Clause (A) of Paragraph 1 of Article (43) after he indicated

To the freedom of individuals to practice their religious rituals, he went back to mentioning the Hussain rituals, and it is certain that this particular reference is a reflection of what the Shiites suffered under the previous regimes.

- 3- The philosophy of the separation of the church from the civil state parallels the philosophies of secularism, disestablishmentarianism, religious liberty, and religious pluralism.

2:2 RECOMMENDATIONS:

- 1- The need to formulate legal texts regulating religious freedom in a way that does not allow for interpretations or interpretations that detract from it and open the way for further restrictions on religious freedom, provided that these legal texts clarify the ways and methods of practicing religious rituals.

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