

Introduction.

Religious liberty is considered to be one of the most basic human rights. The beliefs of one person may seem preposterous to another, but religious liberty demands toleration of conflicting views. This right has been recognized for centuries and has found its way into the major human rights instruments. The State is bound to help create conditions favourable to the fostering of religious life, in order that the people may be truly enabled to exercise their religious rights. It also has the obligation to see to it that equality of citizens before the law, which is itself an element of the common good, is never violated, whether openly or covertly, for religious reasons. Nor is there to be discrimination among citizens. Unfortunately, it is a fact that forms of government still exist under which, even though freedom of religious worship receives constitutional recognition, the powers of government are engaged in the effort to deter citizens from the professing their religion and to make life very difficult for religious communities.

Two main aspects to this right are identifiable, the freedom of religion, in the sense that a person is free to practise whichever religion he wishes, and secondly, the right of non – discrimination on the ground of religion. The latter principle implies that aspects of equality and inequality are fully taken into account, and carefully weighed against each other in the light of the specific right involved, in such a way that the sufficient connection is established. In order to ensure the existence of these aspects the right environment must be set. For this purpose, religious communities must enjoy the right not to be hindered, either by legal measures or by administrative action on the part of the State, in the selection, training, appointment, and transferral of their own ministers, in communicating with religious authorities and communities abroad, in erecting buildings for religious purposes, and in acquiring and using suitable funds or properties. Furthermore, they must enjoy the right not to be hindered in their public teaching. However, they are bound to refrain from any action which might seem to carry a hint of coercion or of a kind of persuasion which would tantamount to an abuse of one's right and violation of the right of others. In addition, religious communities should not be prohibited from

undertaking to show the special value of their doctrine in what concerns the organization of society and the inspiration of the whole of human activity.

Article 40 of the Constitution of Malta stipulates that, “*all persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship*”. The freedom of conscience and religion is one of the foundations of a democratic society. This Article is included amongst those provisions of the Constitution which require not less than two-thirds of all members of the House of Representatives for purposes of amendment. It appears that the right protected by Article 40 of the Constitution, appertains to natural persons, churches and other legal organizations. In this respect the First Hall of the Civil Court, in the case ***Mons. Giuseppe Mercieca proprio et al. v. The Hon. Prime Minister nomine et al.*** (24th September 1984) declared that the Roman Catholic Church had a right to invoke a breach of Article 40 of the Constitution. This judgment is a declaration of principle and is applicable to other religious beliefs.

As in the case of the European Convention, Maltese law does not define the terms “*conscience*” and “*religion*”. It therefore seems that the interpretation of these words should be according to their meaning in common usage. Furthermore, nothing contained in or done under the authority of any law is to be held to be inconsistent or in contravention of Article 40 where the limitation is imposed 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 be reasonably justifiable in a democratic society*”.

Similarly, Article 45 provides protection from discrimination on grounds of race, place of origin, political opinions, colour, creed or sex. The use of the word “*creed*” constitutes a marked difference between the Constitution and other human rights instruments, particularly the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, and the European Convention on Human Rights.

Although to date there is no reported case – law defining the term “*creed*”, it is submitted that it covers a variety of situations.

Through the enactment of the European Convention Act (Act XIV of 1987), Malta adopted the European Convention as part of its domestic law. Thus, Article 9 of the European Convention on the right to freedom of thought, conscience and religion became applicable in Malta, together with the body of case – law developed by the European Commission and the European Court. In view of the adoption of the European Convention into Maltese, any doubts as to which situations are protected under Maltese law have been dissipated. In fact, even if the term “*creed*” is interpreted restrictively by the Maltese Courts, reference could be made to the remedies available under Act XIV of 1987.

Under Maltese law there is no legislation which regulates the establishment and recognition of religious communities. Thus, there exists no legal requirement for recognition and no system of registration.

Church – State Relations in Malta.

The Roman Apostolic Church has always held a prominent position in Maltese society. Through the centuries it has exercised a great influence on both the population, which is overwhelmingly Roman Catholic, as well as on the different rulers. Suffice it to state that during the year we celebrate a considerable number of church holidays. No other religion in the country is granted this recognition and other religions celebrate their church holidays in private.

Article 2 of the Constitution of Malta stipulates that:

“(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 Catholic Church has enjoyed a privileged position in Malta at least since the days of Roger the Norman. The authority and power of the Church reached their climax under the Order of St. John – more popularly known as the Order of Malta. At that time, in the event of conflict between the civil law and the Canon Law, the latter prevailed, and Canon Law was the law of the land whenever the civil law was silent.

The position was reversed in the early years of this century with a net separation between temporal and spiritual powers: a free church in a free State, each enjoying freedom in its proper sphere. The State ceased to be subservient to the Church and its law, and, in temporal matters generally, the Church and its members became subject to the laws of the land as enacted by the civil authorities. In this respect various measures were adopted:

- (i) Ecclesiastical jurisdiction in temporal matters was abolished and all citizens were made subject to the same civil courts;
- (ii) Establishment of ecclesiastical courts was made subject to the approval of the Governor;
- (iii) The right of asylum enjoyed by certain place of catholic worship was abolished;
- (iv) Promises of marriage which, under Canon law, were enforceable were made non-enforceable and a breach of such promise was limited to the payment of damages;
- (v) Personal separation between spouses was removed from the jurisdiction of ecclesiastical courts and judgments of these courts ceased to have any civil effect;

The period between the Second World War and the grant of Independence in 1964 was a tumultuous period in the history of our nation. The general feeling was that the time was ripe for the relation between Malta and the

British rules to change. For a time, the question was whether Malta should opt for independence or integration. The Maltese people opted for independence. It was in this context that conflict between the Church and the Government of the day took place. Thus, public meeting soon degenerated into vicious attacks on the Church and the Clergy; the Archbishop was habitually accused of working against the political and economic interests of the country. The Church on the other hand accused the Government of having Communist tendencies; lay movements instructed people on how to vote so as to prevent the party in Government from being re – elected, while confessors were told to question penitents during confession as to how they had used their votes. The Church went so far as to treat those who voted in favour of the Malta Labour Party as guilty of grave sin, meriting exclusion from the holy sacraments.

Other noticeable changes introduced through the years included:

- (i) In 1975 the State abolished the Bishops' immunity from criminal proceedings;
- (ii) Abolishing the right of the Church to determine who could be buried at the Addolorata Cemetery, the main burial place in Malta, which was a Government cemetery built out of public funds. Before, Protestants, Moslems, Jews and members of other denominations were buried elsewhere. The same applied to a person born a Catholic and who ceased to practice the religion of his birth. For such persons was a plot of land, next to the cemetery but separated from the main cemetery by a very high wall.
- (iii) In 1975 the House of Representatives introduced an amendment in the Income Tax Act, whereby it removed the exemption enjoyed by the Church from the payment of tax.

At the time, when these measures were adopted, the government of the day considered the position of the Church in Malta, particularly the hold which the clergy had over the population, as a legacy of the Middle Ages which in Malta had lasted too long and which could not be tolerated any further.

Protection of Religious Feelings.

It is pertinent to note that according to Article 163 of our Criminal Code (Chapter 9 of the Laws of Malta), it is a crime to vilify the Roman Catholic Apostolic Religion whether by words, gestures, written matter, pictures or by some other visible means:

“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”.

Respect towards other religions is also guaranteed in Article 164 of the Criminal Code which affords the same protection to *“any cult tolerated by law”* (Article 164).

The law goes so far as to provide for protection against the obstruction of religious services. Article 165 of the Criminal Code provides:

“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”.

Although a reading of these provisions clearly indicates that a prominent position was afforded to the Roman Catholic Church, this position subsided by the introduction of the Constitution and then by the enactment of the European Convention Act in 1987.

Freedom of Expression of Religious Communities.

In Malta the Catholic Church has the means of influencing public opinion. Thus, for example it has its own radio station which is licensed by the State, and also publishes a weekly newspaper. This does not however mean that other religious communities may not have similar facilities, and there exists no legislative obstacle in this regard. However, in such an eventuality the State would reserve its right to intervene to protect the religious rights of others and safeguard morals.

The case, **Mons. Philip Calleja vs Police Inspector Denis Balzan**, (decided by the Constitutional Court on the 25th June 1976) concerned the right to manifest religious feelings. It dealt with the carrying of a poster in public by a priest, which contained a statement that "*Catholic Malta is offended by the Marriage Act*". The respondent confiscated the placard and applicant alleged a breach in his fundamental right of freedom of expression. The Court held that applicant had resorted to a silent means of expression. Applicant had every right to express his opinion as long as it is not contrary to law.

Protection and Promotion of Religious Values by the State and Law.

The position of influence which the Catholic Church has managed to achieve through the years, is also manifested by the protection and promotion of religious values by the State. Thus, for example the affixing of a cross or crucifix in government departments, schools, hospitals, prisons, the courts, and the House of Representatives is the norm. Similarly, the crib and Christmas tree are symbols widely used by the authorities whether in streets, airports, government offices, and public gardens.

As regards to the religious oath, it is accepted that a person is to be sworn in the manner he considers most binding. In this regard, Article 111 of the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta) provides:

“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”.

It is pertinent to note that the religious values of the Maltese population are also protected by legislation. Thus, for example shops are prohibited from opening for business on Sundays, even though it is debated whether this restriction should be removed.

Religion and Marriage.

Section 2 of the Civil Code (Chapter 16 of the Laws of Malta) provides: *“The Law promotes the unity and stability of the family”.* Under Maltese law spouses can either file for personal separation, whereby the obligation of cohabitation between the spouses shall cease to have effect for all civil effects. Alternatively, a spouse can file an application requesting the annulment of the marriage. Divorce does not form part of Maltese law. Notwithstanding, Article 33 of the Marriage Act (Chapter 255 of the Laws of Malta) provides for the recognition of foreign judgments affecting status of married persons:

“A decision of a foreign court on the status of a married person or affecting such status shall be recognised for all purposes of law in Malta if the decision is given by a competent court of the country in which either of the parties to the proceedings is domiciled or of which either of such parties is a citizen”.

Therefore, if a Maltese citizen is married to a foreigner, his marriage may be dissolved if his/her foreign partner applies for divorce in the country of which he/she is a citizen.

Prior to 1975, our courts took the view that the religious aspect of marriage was paramount. It was considered that a marriage between Catholics, as well as a marriage in which only one of the partners is a Catholic, is valid only if celebrated according to the rites of the Catholic Church, wherever that marriage takes place. However, through the enactment of the Marriage Act the legislator provided for the abolition of Canon Law as the law on marriage. Marriage was now regulated by a law enacted by the State, and the courts enjoyed the exclusive jurisdiction to take cognizance of matrimonial causes.

The Marriage Act nonetheless recognized the religious aspect of marriage and respects the religious beliefs of the spouses. It ensures respect to freedom of conscience and provides a form of marriage – the civil form – to those who, for one reason or other, prefer that form.

The Marriage Act was amended in 1995, as a result of which several privileges were granted to the Catholic Church, and which to date are not granted to other churches, religions or denominations.

The amendments introduced in 1995 gave legal force to an agreement concluded between the Holy See and Malta concerning the recognition of civil effects to canonical marriages and to decisions of Ecclesiastical Authorities and Tribunals about the same marriages. With effect from 1995 marriages that are celebrated in Malta in accordance with the norms and formalities established by Canon Law shall be recognized and have the same civil effects as a civil marriage. The law defines a “catholic marriage” as meaning *“a marriage celebrated in accordance with the norms and formalities of Canon Law or with a dispensation therefrom granted by the competent organ in accordance with Canon Law”*.

Similarly, decisions delivered by Ecclesiastical Tribunals upholding the validity, or declaring, the nullity, of a marriage are recognized. Registration of decisions delivered by Ecclesiastical Tribunals are effected by the Court of Appeal which delivers a decree declaring the decision enforceable in Malta. Furthermore, the law also provides that the courts are to suspend any judicial proceedings for the annulment of a marriage, where the Tribunal decrees the acceptance of a petition for the declaration of nullity of a Catholic marriage. In such a case the Court is no longer competent to deal with the matter and may not resume hearing the case, until the case has, in accordance with procedures of the Tribunal, been withdrawn from before the Tribunal or been declared abandoned.

A number of conditions are to be satisfied before a decision delivered by an Ecclesiastical Tribunal is registered by an order of the Court of Appeal. These are:

- (i) One of the parties in the marriage is domiciled in, or a citizen of, Malta;
- (ii) The Tribunal was competent to judge the case of nullity of the marriage insofar as the marriage was a Catholic Marriage;
- (iii) The right of action and defence of the parties have been safeguarded in a manner substantially not dissimilar to the principles of the Constitution of Malta;
- (iv) In the case of a marriage celebrated in Malta after the 11th August, 1975, there has been delivered or transmitted to the Public Registry the act of marriage;
- (v) There does not exist a contrary judgment binding the parties pronounced by a court, and which has become final and definitive, based on the same grounds of nullity.

It is pertinent to note that these criteria are more rigid than those provided for by the law in the case of enforcement of foreign judgments. Furthermore, in a decision delivered by the Court of Appeal in the case **Dr. E. Caruana Demajo nomine v. V. Agius Costantino** (29th November

1996), the Court held that it was within its competence to safeguard the constitutional right for a fair trial and to ensure respect for the fundamental right of defence during all the stages of the proceedings before the Ecclesiastical Tribunal. The Court further stressed the fact, “*that the Court will not renounce to its jurisdiction or come short of its duty by consenting to a grave and apparent violation of the Canon Law Code*”. Applying these principles, the Court of Appeal rejected a request for the registration of an affirmative judgment given by an Ecclesiastical Tribunal of Brooklyn, United States of America.

With respect to other religions, marriages contracted according to the rites or usages of a church or religion are recognized, if such church or religion are generally accepted or if the Minister responsible for justice declares them to be recognized (Article 17[2] of the Marriage Act – Chapter 255 of the Laws of Malta). When the Act was being debated in the House of Representatives, it was emphasized that the Government had no intention to discriminate in respect of other denominations, as long as they are in a position to conclude an agreement similar to the one concluded with the Catholic Church.

In terms of the amendments introduced, the Government may enter into agreements with other churches, religions or denominations so as to recognize marriages celebrated in accordance with the rules and norms of that religion as well as declarations of nullity or annulment of such marriages by the competent organs of such religion. However, so far, no such agreement by the Maltese government with another church has been announced in Malta. Observers have noted that the Maltese Concordat was drafted in such a manner as to suit the characteristics of the Catholic religion, thereby making it doubtful whether any other religion will be in a position to satisfy the requirements set out in the Marriage Act.

Other issues of debate have arisen in that the amendments introduced in 1995 provide that:

(i) Where a non – Catholic and a Catholic opt for a Catholic marriage, preference is afforded to the Catholic party. In this case the party who does not profess the Catholic faith is still bound to resort to the

Ecclesiastical Tribunals if he/she wants to file proceedings for a declaration of annulment of marriage;

(ii) Where two Catholics agree to contract a Catholic marriage and at some future stage, one of the spouses renounces to his/her faith, the party who has chosen to embrace a different religion is bound to submit to the Ecclesiastical Tribunal even though he no longer recognises as his own the Catholic Faith, and is bound by any eventual decision it may take.

The fact that the Republic of Malta grants civil recognition to canonical marriages and Ecclesiastical jurisdiction over matrimonial nullity cases, does not imply that the State is a confessional one. Neither can it be said that this is a discriminatory measure against non-Catholic citizens. By means of the agreement concluded with the Holy See, the State acknowledged the social reality that the majority of the Maltese citizens are Catholic and wish to celebrate their marriage in Church. The agreement seems to be motivated by the principle that a State that has a pluralistic matrimonial legal system is honouring the rights of all. To the contrary discrimination will ensue if the State remains indifferent to the religious factor and refuses to recognize Canonical marriages for civil effects. This agreement is still the subject of controversy by those who think otherwise.

Religion and Education.

There are no restrictions on religious communities from establishing a school in Malta, although they do not enjoy the automatic right to be recognized. The government is competent to establish a minimum national curriculum of studies for all schools. Before the school starts operating, the necessary permits would first have to be issued, and without doubt the authorities would investigate and would not hesitate from imposing restrictions for reasons of public safety, public morals and decency.

In terms of Article 8 of the Education Act (Chapter 327 of the Laws of Malta), the Minister of Education has the power to issue a licence for the opening of a school. The licence is issued when:

- (i) The applicant is the Catholic Church, or any other voluntary organization, whether religious or not, and established not with the scope of making profit;
- (ii) The school is in conformity with the national minimum conditions (Article 8);

This does not mean that applications which do not satisfy the above – mentioned conditions are refused. In such a circumstance, the law authorizes the Minister to issue a licence if in his opinion it is in the public interest to do so.

The family, has the right to freely live its own domestic religious life under the guidance of parents. Parents, have the right to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive. The State must acknowledge the right of parents to make a genuinely free choice of schools and of other means of education, and the use of this freedom of choice is not be made a reason for imposing unjust burdens on parents, whether directly or indirectly. Besides, the right of parents are violated, if their children are forced to attend lessons which are not in agreement with their religious beliefs.

Although Article 2 of the Constitution stipulates that the teaching of the Roman Catholic Apostolic Faith is compulsory in state schools, However, Article 40(2) of the Constitution provides that:

“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”.

Therefore, parents of children who do not embrace the Roman Catholic Faith, may object to their children being instructed in this religion and

thereby obtain exemption. A similar provision is to be found in Article 20(4) of the Education Act (Chapter 327 of the Laws of Malta).

The fact that the Maltese population is overwhelmingly Roman Catholic is the main reason why disputes have not arisen in this area. Thus, for example, the right of parents to have their children educated in accordance to their religious beliefs; the affixing of crucifixes on the walls of class rooms; the exposure of religious symbols by students; Bible reading over the school intercom and; compulsory participation in a school parade to which one objects on grounds of religion, are issues which have rarely been raised.

In our State schools and private schools there are a considerable number of students professing different religious beliefs. Students have the same right to engage in individual or group prayer and religious discussion during the school day as they do to engage in other comparable activity. Thus, for example students are free to read their Bibles, say prayers before meals or before tests. However, local school authorities possess a certain amount discretion to impose rules of order and other pedagogical restrictions on student activities, however they may not structure or administer such rules to discriminate against religious activity or speech. Similarly, students in informal settings, such as cafeterias and hallways, may pray and discuss their religious views with each other, subject to the same rules of order as apply to other students activities and speech. On the other hand, school officials are expected to intercede and refrain student speech that constitutes harassment aimed at a student or a group of students.

In the sphere of education, there is no definite rule that a person not professing the Roman Catholic Faith cannot hold an office entailing the teaching of this religion. However, Article 45(9) stipulates:

“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 section”.

Therefore where such a condition is imposed, the person concerned cannot claim discrimination. Prior to the introduction of the above-mentioned provision, the Constitution specifically provided that “*no person not professing the Roman Catholic Apostolic Religion shall hold any office entailing the teaching of that religion*” (Article 46[9]).

Furthermore, in Malta there is no difference between state schools and private schools except that education in the former is free of charge. The Church owns the majority of private schools. Following an agreement reached in 1985 between the State and the Church, the State provides a certain amount of funding for the running of these private schools. The procedure for admission to the Primary Schools of the Church is by ballot, whereas examinations are held for entry into the secondary schools. The Education Act (Chapter 327 of the Laws of Malta) also provides that in order to ensure the full exercise of choice of school by parents, the State shall provide, according to the availability of public funds, for free tuition. This assistance is applicable where the school is not of a profit-making character (Article 41). Following the 1985 agreement, education in church schools is free, however parents are encouraged to donate a periodical contribution to the school as a means of financial assistance.

At tertiary level, the Church has a Faculty of Theology within the University of Malta. The Government of Malta finances this faculty according to the same criteria which it applies for the financing of the other Faculties.

Religion and Custody of Children.

Parents have a right to bring up their children in accordance with their own religious and philosophical convictions. The right of parental authority affords parents absolute freedom in deciding whether their children are to be brought up according to the tenets of one religion or of another, or perhaps even as non – believers.

Where the parents embrace different religions, or where one parent is a non-believer, the parents must agree on the religion which their child is to be

brought up in. In this regard the State has no right to intervene. Notwithstanding, where disagreement prevails the matter is regulated by the Civil Code (Chapter 16 of the Laws of Malta) in that part of the law which deals with family law. Section 131(3) stipulates that:

“In case of disagreement between the parents on matters of particular importance, either parent may apply to the court of voluntary jurisdiction indicating those directions which he or she considers appropriate in the circumstances”.

After both parents are heard, a decision is delivered by the Court keeping in mind the best interest of the child. Where disagreement persists, the Court would authorize the parent whom it considers more suitable to protect the interests of the child in the particular case.

The religion which one practices may feature when the local courts have to decide on an application for adoption. Thus, Article 119(2) of the Civil Code (Chapter 16 of the Laws of Malta) provides:

“In determining whether an adoption decree if made will be for the welfare of the person to be adopted, the court shall have regard (among other things) to the health of the applicant,..... and shall give due consideration to the wishes of the person to be adopted, having regard to his age and understanding and to the religious persuasion of such person and of his parents”.

This provision has acquired importance especially when one considers the influx of applications requesting the adoption of children coming from foreign jurisdictions and professing different religions.

Conscientious Objection.

There have been instances in Malta, where persons refused to submit to medical treatment, or, alternatively to give their consent for minors under their authority to submit to medical treatment on grounds of conscience and religion. The refusal by a Jehovah's Witness of life saving blood transfusions is considered to be a matter of religious belief. Under Maltese law, the Courts may intervene in the best interests of the minor to ensure that the necessary medical treatment is administered to the minor. In fact, what normally happens is that an application is filed by the Attorney General in terms of Article 149 of the Civil Code:

“Notwithstanding any other provision of this Code, the court may, upon good cause being shown, give such directions as regards the person or the property of the minor as it may deem appropriate in the best interests of the child”.

The Court would immediately order that the necessary treatment is provided without giving the person enjoying authority over the minor, an opportunity to express his/her views on the matter. The imposition of such compulsory treatment is for the protection of the minor's health.

Local jurisprudence.

As regards discrimination on the grounds of religion, to date there has only been one Constitutional judgment where the Court declared that there was discrimination on this ground. The Archbishop of Malta sued the local Government following the enactment of the Devolution of Certain Church Property Act of 1983 (Act X of 1983) and Act XI of 1983. Applicant alleged that such legislation imposed certain obligations on the Catholic Church, which were not imposed on other churches or religions. Respondent on the other hand, submitted that this was not the case as the law was aimed at ecclesiastical entities, thus including all churches and religions. However, this submission was contradicted by the applicants who stated that the reference to masses for the repose of the souls of the deceased, as well as

the use of the term “ecclesiastical”, only affected the Catholic Church and, with certain limitations, the Orthodox Church in Malta.

Amongst the various complaints, was the restriction of making donations by persons professing the Roman Catholic Religion for the celebration of masses for the repose of souls. The law stipulated that such donations could only be made for a maximum of twenty – five years. The First Hall of the Civil Court, in a judgment delivered on the 24th September 1984, upheld applicant’s grievance and declared that this restriction was tantamount to discriminatory treatment. The same conclusion was reached with respect to a provision in the law which deprived the Roman Catholic Church from acquiring rights over property by means of prescription, even though according to Canon Law prescription had no value unless it was based on good faith.

Chief Justice Joseph Said Pullicino B.A. LL.D.

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MALTA.