

Religious identity, State law and minorities' rights

Responsable

Tommaso Virgili
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Mercredi 12 juillet 2023
11h-13h
Salle Déméter 015

Intervenants

Ignatius Yordan Nugraha
(Hasselt University)

Benedetta Panchetti
(ASAFAL Interuniversity center,
University of Siena)

Tommaso Virgili
(WZB Berlin Social Science Center)

Résumé de l'atelier

This panel aims to contribute to academic discussions on majoritarian identity and minority rights in the Muslim world. The social, national and, to a certain extent, legal identity of the countries in question is often substantially shaped or influenced by religion.

This has led to repercussions against minorities that do not subscribe or belong to the majoritarian identity. It includes not only those religious minorities that have been living in these countries since centuries, but also sexual minorities, freethinkers and secularists, who have increased or manifested their presence in those countries in recent decades. Both historical religious minorities as well sexual and non-religious groups share a common experience of reduction in some of their civil rights as citizens of their country. While some of them decide or are forced to migrate in order to have their rights fully recognized, those who remain still face various form of discriminations.

Against this background, this panel intends to address the following questions:

- What kind of bottom-up mobilization have those minorities been carrying on to ask for the respect of their rights and to make states grant them an effective legal protection?
- To what extent have states used the national religious identity to justify violations of human rights?
- Are vulnerable minorities able to fully exert their citizenship rights on par with the majority? This panel will draw from a diversity of Muslim-majority jurisdictions to answer these questions, including Indonesia, Lebanon and Tunisia.

Programme

Ignatius Yordan Nugraha

"Belief in One God": Religious Constitutional Identity vs the Rights of Religious and Sexual Minorities in Indonesia Collapse

Indonesia is founded on the five fundamental principles of the state which are collectively called the Pancasila. The first principle enshrines "belief in One God". This principle, however, has been construed in a way that is detrimental to the rights of religious and sexual minorities, international human rights law notwithstanding. The purpose of this presentation is to explore how the religious constitutional identity of Indonesia has been interpreted by the Indonesian Constitutional Court in a way that would conflict with international human rights jurisprudence on religious and sexual minorities. This presentation will particularly focus on the Blasphemy case and the LGBT case in Indonesia.

Benedetta Panchetti*Civil marriages and religious sectarianism in Lebanon*

This presentation will focus on both legal and social interactions between religious and civil marriages in Lebanon as since 2013 different NGOs and civil society's movements have been carrying on various legal attempts to obtain a state legislation allowing civil marriages in the country. Under Lebanese state law, only religious marriages are allowed, only religious laws are entitled to rule any matters related to family law and each Lebanese citizen belongs to the paternal religious community, having the right to change the religious affiliation as an adult but not being legally allowed to refuse any religious affiliation. Those different bottom-up actions are led by both non-religious and religious Lebanese citizens, who support civil marriages as a legal way to lower that religious sectarianism on which Lebanon has historically been formed as a state entity but which today prevents the State from asserting its authority in front of the 17 Muslim and Christian religious communities officially recognized.

Virgili Tommaso*Constitutional Rights or Islamic Identity? The rights of sexual and religious minorities in Tunisia*

This presentation will focus on Islamic constitutionalism and on the relation between religion and the protection of individual liberties potentially clashing with shari'a and the Islamic ethos. It will concentrate in particular on the most persecuted minorities, namely homosexuals and freethinkers (apostates, heretics, blasphemers), in Tunisia. Drawing from legislation, case law and interviews, the presentation will show that the persecution of sexual and religious minorities follow similar patterns: the same vague legal concepts, interpreted under a religious light, are used in both cases with a liberticidal intent; on the other hand, the same constitutional and international guarantees would protect both categories. The main conclusion is that a religious *Grundnorm*, shaped along orthodox lines, is hardly compatible with the primacy of a human-made constitution and with the full recognition of equal and inalienable individual rights that is central to the constitutional mission.