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From the Ottoman *Millet* to Neo-milletism
Israel and Lebanon in Comparison

Abstract
The proposed article introduces the main features of the *millet* system of personal laws, which is considered the most emblematic and oldest example of personal federalism adopted by the Ottoman Empire and maintained, in different forms, in some contemporary States. The first part of the contribution outlines the origin of the *millet* system, founded on the Islamic institute of *dhimma*, as well as its fundamentals and functioning under the Ottoman Empire. In so doing, particular emphasis is placed on the logic underlying the Ottoman *millet* system, as well as the main differences between this prototype of personal federalism and the protection of minorities, as conceived within the Western legal tradition. Moreover, the proposed contribution foregrounds a rather complex picture of Ottoman pluralism. Although, in principle, the *millet* system portrayed the society as made up of homogeneous communities, each *millet* was characterized by multiple ethnic, linguistic, and cultural realities. Indeed, intra-*millets* dynamism and the interactions between different *tai'fe* – i.e., smaller units within the *millets* - allowed for the crossing of identity boundaries within the religious groups. The second part of the paper addresses the influence of the Ottoman *millet* in Israel and Lebanon, where neo-*millets* systems grant recognized religious communities a large degree of administrative and jurisdictional autonomy, as well as, in Lebanon, the right to be represented in the parliament, the government and the public administration.

Keywords: Legal pluralism, personal law, millet system, neo-Milletism, comparative law, Ottoman Empire, Israel, Lebanon.

1. Introduction*

In contemporary secular systems, cultural and religious pluralism deeply intertwine and foster the debate about the place of religions in the public space. This is because the religious dimension is one of the most articulated expressions of cultural pluralism, and it shapes the identity of the different communities that make society. Religious communities, each with its own traditions and norms, coexist and demand a place in the public space. The multiplication of requests from the "homogeneous moral communities"[1] for recognition and protection challenge contemporary legal systems, forcing legislators and courts to finding a complex balance between the rights of the individuals and the collective rights of the religious groups. Moreover, traditional instruments for protecting minorities, which mostly link rights to a certain territory, often prove inadequate to addressing the claims of non-territorial minorities.

The picture is even more complex with regards to those constitutional and legal systems characterised by legal pluralism. These systems, 'open' to the plurality of cultures and religions, incorporate religious norms that cannot be directly ascribed to the state (secular) legal system. The reference is, in particular, to the coexistence of rules, sanctions and institutions that are not formally part of the state legal system and that are, nevertheless, able to act in the public sphere[2].

The concept of legal pluralism finds application in those scenarios in which old and new minorities demand equality with the majority religion, as well as the application of their religious laws, at least with regard to specific matters (such as marriage, divorce, inheritance, dietary rules, the wearing of religious symbols and clothing). The state legal system sees its legal production supplemented by rules that are beyond its control but which, at the same time, apply to relations between citizens.

In these circumstances, it is necessary to determine whether the primary legal order, which governs the conduct of all persons present within the territory of the State, recognises, admits, or tolerates that some persons or groups observe rules of non-State origin. In this case, in fact, the existence of different normative systems, parallel to the state one, means that the legal phenomenon is not limited to the official sources of law that are under the control of the State, but also includes all those legal and non-legal rules that – in practice - govern the behaviour of individuals, or of some of them.

Among the versions of legal pluralism that best relate to the phenomenon of cultural and religious pluralism is the one proposed by Griffiths, who suggests a distinction based on the degree of openness of the state legal system to other normative systems present and operating within its territory. In this sense, Griffiths distinguishes between 'weak legal pluralism' and 'strong legal pluralism'.

'Weak legal pluralism' exists within the boundaries of the State, through mechanisms of connection and recognition that bring the normative system, placed under the hegemony of the State, back to unity. On the other hand, 'strong legal pluralism' does not suffer from the hegemony of the state system. Thus, within the same territory, different regulatory systems for different groups operate

* The present contribution is a translated and revised version of the book chapter "Millet", in Bagni et al. (eds.) (forthcoming). As far as the contributions are concerned, paragraphs 1, 2 and 5 have been co-authored by Cavalcanti, M.F. and Parrilli, A., par. 3 is authored by Parrilli, A.; par. 4 is authored by Cavalcanti, M.F.

[1] Veca (2013:54-56).

[2] Facchi (2007); Motta (2004:141); Scarciglia, Menski (2018); Puppo (2017: 105-130); Merry (1988:869-901); Locchi (2017).

and the state institutions do not have a monopoly on functions related to the production and application of rules[3].

The idea that culturally, traditionally, and religiously diverse people can live together in a virtuous way is often traced back to the Western political and religious tradition, starting with the Latin tradition of *ius gentium* and the medieval tradition of the Holy Roman Empire. But there is another particularly significant experience that must be considered in this context: that of the Ottoman Empire and its Millet system, specifically designed to ensure the coexistence between the different religious communities under the control of the Empire.

The Ottoman Millet is considered a prototype of the so-called personal federalism. The latter is a form of political organisation characterised by the prevalence of the personalist principle over the territorial one, and the identification of (virtually) homogeneous communities on the basis of language, religion, and ethnicity. The communities are recognised by the State as holders of rights and powers of self-government, which also include the power to apply the groups' traditional and religious law with regard to matters considered central to the collective identity the minority community, such as family law[4].

Although personal federalism can coexist with territorial federalism, it disregards the community link with the territory and allows the recognition by the State of rights and status to all members of the cultural or religious minority, regardless of where they are located. The exercise of the powers of self-government requires the recognition by the State of the communities' institutions, which are granted sufficient autonomy to exercise them. This autonomy implies also that the State refrains – as far as possible- from interfering with the activities of the community's institutions, especially on issues of decisive importance for the collective identity of the group.[5]

Personal federalism is typical of those systems that address the needs and criticalities of deeply culturally, religiously, and linguistically fragmented societies. These societies are generally characterised by cultural and political cleavages, as well as the need to ensure that all communities participate in the public sphere[6]. Personal federalism aims to preserve the peculiarities of each community thus avoiding the risk of assimilating them to the majority. At the same time, the system attempts to overcome the criticalities brought about by cultural and religious pluralism by granting to the State recognised communities a certain margin of autonomy and powers of self-government.

While the systems shaped by personal federalism emphasise power-sharing between the minority communities and the State, they pose the problem of establishing a clear separation between intra-community and extra-community domains through a set of conflict rules applicable in cases of overlap between competing legal systems[7]. Although the personality-based systems are often deemed particularly efficient in governing plural societies, especially in its earliest expressions, such as the Ottoman *millet*, they have been widely criticized in literature.

[3] Griffiths (1986: 1-55); Vanderlinden (1972); J. Vanderlinden, *Le Pluralism Juridique* (2013); A. Touraine, *Libertà, uguaglianza, diversità* (1998).
[4] Gaudreault-DesBiens (2010:159-181).
[5] Messara (1994).
[6] Messara (1994:11).
[7] Gannagé (2001:239).

Firstly, it was pointed out that such models carry with them the risk of isolating communities, eliminating inter-community interactions, and minimising those with the State and the majority[8]. In addition, they may not provide sufficient protection for individuals within individual communities.[9]

According to Messara, in a democratic context, where personal federalism is used to solve problems related to the marginalisation of minorities with no territorial connection, it can take the form of what the author calls statutory federalism. In this sense, individuals declare their belonging to a community that enjoys a certain degree of autonomy specified by a statute[10]. Because of this declaration, the provisions of the statute become applicable to these individuals, who must abide by the decisions taken by the community within its areas of competence, without being able to turn to the general discipline established by the state legal system.

In principle, it is the individual who decides to self-identify with a given community. However, in practice, this choice does not appear to be truly free, as it is influenced by the family, the place, and the social context of birth. The belonging of the individual to a specific community, which is usually determined by the communitarian rules, is automatically registered by the State, which makes this identification enforceable in relations with other individuals, other communities, and the State itself.

The main problem with this process is its exclusivity: once this membership has been defined - whether the choice of individual is free or conditioned by other factors - he/she cannot identify with any other group[11].

It is evident that, in a democratic context, the idea that an individual belonging to a particular minority is, in any case, bound to that cultural, ethnic, or religious identification, appears problematic, if only because each person is characterised by multiple and overlapping identities. Consequently, he/she can belong simultaneously to different groups, all of which contribute to shape his or her identity[12].

Among the risk of personal federalism there is the flattening of the individuals' identity to a single (religious, cultural, linguistic, national) dimension. Furthermore, the relationship between the rights of the individuals and collective rights pertaining to the groups may create the so-called 'paradox of multicultural vulnerability'[13] of the minorities within minorities, that are those minorities within a specific group that might see their rights oppressed by the community leadership and their vulnerability enhanced by the multicultural policies originally designed to value and protect differences[14].

The most relevant experiences of personal federalism are found in the Middle East and Asia, inspired by the need to govern the demographic, cultural and religious complexity of these geographical areas, combined with the absence of a significant territorial concentration of the groups that make up these societies. These experiences have also been facilitated by the spread of Islam and the Islamic traditional approach to minorities and inter-community relations[15]. The most emblematic and the oldest example of personal federalism is the *millet* system adopted by the Ottoman Empire and maintained, in different forms, in some contemporary States.

[8] Nootens (2004:254).
[9] Messara (1994).
[10] Messara (1994:62).
[11] Gaudreault-Des Biens (2010:162).
[12] Shachar (2001).
[13] Shachar (2001:3).
[14] Eisenberg, Spinner-Halev (2005).
[15] Gaudreault-Des Biens (2010:162).

2. From the Ottoman *millet* to the *Neo Millet System*

The term *millet* refers to the system that the Ottoman Empire applied to govern an immense area, populated by a variety of ethnicities, languages, cultures, and religions (Turks, Slavs, Albanians, Greeks, Muslims, and Christians)[16]. The Ottoman rulers knew it was impossible to assimilate the communities; moreover, given the territorial extension of the Empire, there was no effective way to grant groups rights on a territorial basis[17].

The Turkish term *millet*, probably of Aramaic origin, derives more directly from the Arabic word *millah*, which – in its narrow sense – can be translated as 'religious confession'[18]. The lemma also occurs in the literature with different meanings, including the meaning of 'religion'.

From the 17th century onwards, in the *Vocabolario Italiano-Turchesco* (1665), the term *millet* exclusively referred to Muslims subjects of the Ottoman Empire. Other terms, already in use before the establishment of the Empire, were used to identify the non-Muslims, including *ta'ife* (dioceses), *ceemat* (community), *diyanet* (cult). In literature, the term was also used with reference to Christian populations outside the Ottoman Empire[19].

From the 19th century onward, the word *millet* acquired an additional meaning, as it was also used to translate the Western-European concept of 'nationality'. However, unlike other terms used to refer to nationality, such as *ulus*, the word *millet* retains a strong religious component [20]. As is also the case in Eastern Christianity and traditional Judaism, the logic underlying the *millet* closely connects community bonds, individual civic status, and the law of religious belonging[21].

Recent studies of primary sources (imperial decrees, administrative registers, and other official documents) emphasise the hierarchical relationship between two different institutions: the *millets* (communities), and the *tai'fe* (dioceses). The latter were smaller entities within the *millets,* distributed on a local scale and composed by multiple ethnic, linguistic, and cultural identities. The study of intra-millet dynamics and the interactions between the different dioceses gives a rather complex picture of Ottoman pluralism. Indeed, while in principle *millets* are depicted as homogeneous entities, the system of *tai'fe* allowed for the overcoming of the identity boundaries within each confessional community[22].

The doctrinal debate concerning the real status and the protection of rights of the non-Muslim subjects in the Ottoman Empire is far from settled. Some describe the Ottoman *millet* model as a consolidated, rigid system, recognised and accepted by the religious communities from the end of the 15th century. Others, on the contrary, argue that one can only speak of an organic and coherent system for the management of religious pluralism from the 19th century onwards, when the long process of reform of the empire known as the Tanzimat (1839) deeply changed the structure of the *millet*[23].

The legal regime of the *millet* was institutionalised by Sultan Mehmed II (1446-1481) in the aftermath of the conquest of Constantinople (1453) in response to the necessity to govern the peoples

[16] Farooqhi, *Geschichte des Osmanischen Reiches* (2006).
[17] Barkey, Gaurilis (2016: 24 – 42).
[18] Dragonas, Birtek (2005:81-82); Meeker (2002:343); Hutchinson, Smith (2000:240); Aslan (2003: 1 -18).
[19] Ursinus (2012); Braude (1982: 69-88); Goffman (1994: 135-158); Cimbalo (2008: 79-85); Quer (2010: 257- 284).
[20] Quer (2010:264).
[21]Cahman (1944: 526).
[22] Donelli (2017).
[23] Bottoni (2007: 242 – 260).

that had fallen under the Sultan's rule: Armenians, Jews, and Greeks[24]. Non-Muslim minorities permanently residing into the Ottoman territory were known as *dhimmi*, from the Islamic institution of institution of *dhimmah* - in Turkish, *zimma* -, protection[25].

The Islamic legal tradition constructs individual identity on the basis of 'religious citizenship',[26] i.e., the person's adherence to a given faith and religious community. In Islamic law, legal capacity itself is linked to religion. In this respect, a person of full capacity is a Muslim, possessing all the requisites to fulfil legal-religious obligations (*mukallaf*). [27]

The rules of *dhimma* dates back to the Medina Charter (622 CE) and they are usually discussed by Muslim jurists under the heading dealing with *gihad, gizya* and *kharag*. The contract of protection (*'aqd al-dhimma*) concluded by Muhammad with the Israelite tribes – the most numerous non-Muslim religious communities in Medina at that time – outlined, in about 50 points, the terms under which the *dhimmis* were permitted to live within the Islamic land (*dar-al-Islam*), as well as their relationship with the Muslim rulers[28].

Initially, the status of *dhimmî* was only granted to Jews and Christians; then, it was extended to Zoroastrians and other religions for the purposes of applying the protection regime and the tax enforcement rules established by the *qur'an* (IX, 29)[29].

The *dhimmî* were granted a margin of administrative civil and fiscal autonomy, upon payment of an individual tax (in Arabic, *jizya*; in Turkish, *cizye*) and tax on agricultural land, *kharag*[30] on an annual basis. The rights and freedoms granted to the *dhimmis* through the legal mechanism of *dhimmah* were perpetual, not subject to renewal or limitation.

The institution of *dhimma* is often studied by legal scholars through the lens of "minority rights" and "anti-discriminatory law" and presented as an example of "tolerance" or, on the contrary, "discrimination". However, both approaches do not provide an accurate understanding of the *dhimma*. With reference to the *dhimma* in the Ottoman era, Anver Emon affirmed:

> "The *dhimmi* presents a site of contest between the aspirations of universalism and the logistical realities of empire. [...] the feasibility of empire sometimes required that non-Muslims be permitted to live peacefully in the empire. To suggest otherwise would require cleansing the empire of diversity, which would actually work contrary to the management requirements of an empire. Yet, to permit the non-Muslim to remain non-

[24] Karpat (1982: 148); Inalcik (1988:196).
[25] Fattal (1958). See also Aslan (2003: 1 – 18).
[25] On the concept of 'religious citizenship', Ventura (2017:691); Parolin (2007).
[26]Parolin (2007).
[27] Castro (2007, 27 ff). Numerous legal compendia in the Arabic language discuss the legal institution of *dhimma* and religious affiliation in Islamic legal theory. Among these, the most famous work is perhaps that of Ibn al-Qayyim al-Gawziyya's entitled *Ahkham ahl-dimma*. Less numerous are the compendia written in European languages, including A. Fattal, *Le statut legal des non-musulmanes en pays d'Islam*, Beirut 1958; A. S. Tritton, *The Caliphs and Their Non-Muslim Subjects. A Critical Study of the Covenant of Umar* (1950), New York 2008. Both Arabic and European literature draw from a variety of sources: agreements between Muhammad and non-Muslim minorities, qur'anic verses, and the prophetic traditions (*sunnah*), as well as the legal praxis of the early Caliphs reported in various legal and administrative documents. The variety of sources makes it difficult to reconstruct with certainty the legal framework regulating the status of non-Muslim minorities in the Ottoman empire as well as its development over time. Cfr. Fattal (1958:58).
[28] Donelli (2017);Parolin (2013:27-56).
[29] Aslan, (2003:1- 18).
[30] Ventura (1999, 2019: 76 ff).

> Muslim in an Islamic polity might be seen as contrary to the ethic of an Islamic universalism. The contract of protection and the *dhimmi* rules offered important mechanisms by which to resolve this conflict."[31]

Indeed, *dhimmi* rules differed from the modern instruments for the protection of minority rights and forms of autonomy[32]. Although the *dhimmî* were free to administer the internal affairs of the community, according to their respective religious law and traditions, they enjoyed limited freedoms in other areas. For instance, they were generally denied access to public office[33]. The *dhimmî* freedom of worship was also subject to limitations, particularly with regard to the building of new places of worship, as well as the performing of public and/or collective rites, such as funerals. Furthermore, the *dhimmis* could not marry a Muslim woman, teach the Koran to their children, prevent the conversion of a relative to Islam and proselytizing[34]. In essence, the *dhimma* ensured the peaceful coexistence of different religious communities within the Empire, ensuring, at the same time, the supremacy of the Muslims over non-Muslims. These restrictions and others, such as riding on horses and carrying weapons, are generally traced back to an agreement signed between the second caliph Umar ibn al Kattab (634-644) and the Syrian Christian communities conquered by Muslims. The historical authenticity of the 'Pact of Umar' is contested.[35] Nonetheless, it forms part of the Islamic jurisprudence, which describes the Pact as a fundamental agreement that guaranteed the peaceful coexistence of Muslims and non-Muslims, while ensuring the dominance of Islam, especially in the public sphere.[36]

The Ottoman ruler officially abolished the institution of the *dhimma*, replacing it with *millet* system. However, the two legal mechanisms share the same logic.

The recognition of the superiority of Islam and the Muslim community is inextricably linked to the principle of justice (*adalet)* that ensures political and social order in the Islamic polity. According to this principle, each person - Muslim and non-Muslim – plays a specific function in the society and is called upon to honour and preserve his/her social role. In the Ottoman context, the legal category of 'minority' - in the liberal-Western sense of the concept - was only introduced in the 19th century, when the term *azinlik* was coined[37].

Another important feature of the Islamic approach to non-Muslim legal status concerns the criteria to identify and rule different religious communities.

In the Islamic tradition, the legal status of non-Muslims is inferred through the exegesis of divine sources. However, the ruling of the non-Muslim communities in the land of Islam, particularly regarding the financial aspects, is entrusted to the secular authorities[38]. Similarly, in the Ottoman *millet* system - which combined Islamic law with pre-Islamic practices, especially of Turkish-Mongolian and Byzantine derivation - the legitimacy of the system was to be found in *sharia* law; nevertheless, the relationship between the Empire and the *dhimmî* was concretely regulated by the Sultan's *qanùnnàme* (edicts), whose respect was monitored by the judges (in Arabic, *qadì*; in Turkish, *kadi*).

[31] Emon (2012:76).
[32] Woelk (2021:165-179).
[33] Ventura (1999:76).
[34] Masters (2001); Cohen (1994:55-59).
[35] Tritton (2008:70-71).
[36] Tritton (2008:71).
[37] Del Zanna (2011).
[38] Campanini (2018;74 ff).

In other words, the legal position of the non-Muslim was the result of a dual membership: the membership to Islamic society and the membership to the protected confessional community (*millet*). In such a context, political loyalty was conceived within a community framework and was guaranteed by the direct link between the Sultan and the representatives of the *millets*. Thus, from the 15th century onwards, the Ottoman subjects of the empire were placed under a dual jurisdiction: the secular jurisdiction of the Sultan and the jurisdiction of the religious community. The *millets* were instituted through pacts stipulated between the Sultan and the confessional communities, which enjoyed wide jurisdictional, financial, and administrative autonomy[39].

At the individual level, the autonomy consists in differential treatment of the individuals on a confessional basis. At the community level, the system gave rise to forms of self-government. The members of the *millets* remained subject to Ottoman jurisdiction in criminal, commercial and economic matters. The military also remained under the exclusive control of the Empire. In return for their loyalty and the regular payment of taxes, the Sultan pledged to protect the communities and their members.

Far from representing a homogeneous and coordinated system, the Ottoman *millet* was based on a set of agreements between the Ottoman central administration, the local representatives of the *millets*, and selected groups within each community. The content of these agreements was heterogeneous and subject to constant renegotiation. It was only in the 19th century - due the *tanzimat* reforms and the progressive 'westernisation' of the Ottoman legal system - that the *millet* took the shape of a coherent legal and administrative unit, albeit with significant differences among the communities.

In 1453, the first *millet* to acquire extensive autonomy was the Orthodox millet, ruled by the Ecumenical Patriarch of Constantinople. The latter was to all intents and purposes a member of the Ottoman administration. The Patriarch, under whose jurisdiction all members of the community were brought, was granted complete autonomy in the management of the Church, schools, tribunals, and properties, which were subject to the same legal regime as the Islamic *waqf* (charity foundations)[40]. Identified as the Greek nation (*Rum Milleti*), the Orthodox *millet* also included Albanians, Bosnians, Bulgarians, Romanians, and Orthodox Serbs. Then, in 1461, the Armenian-Greek *millet* (*Emeni Milleti*) led by the Armenian Patriarch, was recognised. This *millet* also included Nestorians, Chaldeans, Catholic Armenians, and other heterodox Christians. The third *millet* to be recognised by the Empire was the Jewish one (*Yahudi Milleti*)[41].

The Christian Orthodox and Armenian-Gregorian *millets* were organised according to a hierarchical pyramid structure. The organization of the Jewish *millet* instead was more complex. The Jewish communities enjoyed a high level of administrative decentralisation, officially recognised by the Sultan only in the 19th Century. In the absence of a single community leader to act as an intermediary between the Jewish subjects and the Empire, the negotiation of the agreements took place within each Jewish community or through the appointment of special negotiators to the Sultan's palace[42]. The choice of patriarchs and rabbis to head the communities was left to the respective millets, through the council or, in the Orthodox case, the synod. The appointment was, however, subject to the approval of the State, which issued, by imperial decree, an investiture diploma, *berat*, to the designated individuals.

[39] Rechid (1935:306 ff).
[40] Vercellin (2002:35-36).
[41] Papadopoulos (1924:80-82).
[42] Donelli (2017).

Although issued to religious figures, the title of *millet* leader (başi) was essentially secular in nature and invested community leaders with civil functions.

The leaders of the community were state officials entrusted with the task of maintaining the relations between the *millets* and the State. They also guaranteed the loyalty of the communities to the Empire, public order and security within the community, and the collection of taxes. In addition, the leader headed the local government, and they had the power to request the intervention of the Ottoman authorities to enforce the ruling of the local courts. As already mentioned, the *millets* were granted jurisdictional, administrative, and financial autonomy by the Empire.

As for jurisdictional autonomy, the religious courts of the *millets* were competent on matters of personal status, property, obligation, and inheritance. However, the extent of these competences varied according to the religious community. In matters of inheritance, for example, the Orthodox were allowed to fully apply Byzantine law. The Jews, instead, were granted less autonomy, as the application of Jewish law was limited to legal disputes concerning movable property. With regard to other inheritance matters, Jews (and Armenians) were subject to Islamic law[43]. However, there were cases in which the *dhimmi* applied the principle of *favor fori,* voluntarily bringing intra-communal disputes before the Ottoman general court instead of litigating in their religious tribunals.[44] This circumstance was far from infrequent and resulted in the Islamic courts developing a large body of case law regarding non-Muslim minorities invoking the application of Islamic law in their cases.[45]

In terms of fiscal autonomy, the *millets* only enjoyed partial autonomy, as they were entitled to issue internal taxes. Furthermore, the Jewish and Christian *millets* were exempted from the payment of taxes on the ecclesiastical properties[46].

With regard to administrative autonomy, the *millets* were free to decide their internal structure and to expand into the Ottoman territory by establishing other small 'local' *millets*. Furthermore, the *millets* elected their local representatives and set up assemblies and local offices. In addition, the communities could build their places of worship, and establish charity foundations The latter were established by imperial edict and allowed communities to indirectly exercise limited property rights. Education was also partially decentralised, and the *millet* were free to establish their own schools and to teach in the language(s) of the *millet*.[47]

Although usually associated with non-Muslim minorities, between the 15th and 16th centuries, the organisation into *millets* also applied to the Muslim majority: the traditional concept of *ummah* was superimposed on that of *millet*[48]. Like the others, the *millet al Islam* was conceived, at least on a theoretical level, as a homogeneous community, despite the internal ethnic, linguistic, and cultural differentiations.

The only applicable Islamic law was Sunni law, as other branches of Islam were not recognised by the Ottoman ruler[49].

[43] Bertola (1925: 35-38, 53-54).
[44] Göçek (2005:47-69).
[45] Al-Qattan (1999:429-444)
[46] Quer (2010:265).
[47] Bottoni (2010: 473-490); Kurban, Hatemi (2009:9-10); Oktem (2009:478-479).
[48] Donelli (2017).
[49] Nisan (2002: 93 -132).

Moreover, as with other *millets*, the Muslims relationship with the imperial power was mediated by the community, embedded within the state's administrative apparatus, and organised according to a hierarchical order. The creation of a hierarchy of religious offices (*ilmiyye*) within the Turkish Muslim community, subject to the control of the state, constitutes a peculiar feature of Turkish Islam and an important difference from the de-hierarchical conception of the *ummah* outlined by orthodox-Sunni Islam[50]. The bureaucratisation of Islam and the State control over the majority religion which characterised the Ottoman Empire, was preserved in the modern Republic of Türkiye[51].

Following the tanzimat reforms, the secularisation and westernization of the legal and political systems led to the introduction of the concept of ottoman, secular, citizenship (*tabiiyet*), alongside the religious citizenship of the *millets*.[52]

The *millet* system was reformed and purged of some discriminatory aspects that characterized the *dhimma*. The state control over the internal affairs of the *millets* was strengthened. At the same time, the Armenian, Greek and Jewish *millets* approved new statutes, which increased the presence of non-religious representatives in the local councils[53]. The aim was to reduce the power of religious leaders, while, at the same time, contributing to the creation of a common Ottoman identity, a sense of solidarity between the peoples of the Empire beyond the religious belonging. The *Tanzimat* also affected the judicial system. The principle of the personality of the law was preserved with the creation of mixed courts in commercial, criminal, and civil matters. The possibility to appeal the religious tribunals was retained, but it was subject to the agreement between the parties. The controversies arising between parties of different faiths were litigated before the civil courts[54] Finally, while under the *dhimma*, non-Muslim were excluded from public offices, the 1876 Constitution provided for the inclusion of representatives of the millets in the central (art. 62) and local government (art. 111) bodies.

In reforming the *millet* system, the Ottoman ruler considered the legal mechanism aimed at the protection of religious minorities established by the treaties, conventions, and other agreements concluded with the European countries[55]. However, the system did not withstand the emergence of the (European) idea of the nation-state, as a political entity characterized by a certain cultural-religious uniformity, of which the political power is the expression. Nevertheless, after the fall of the Ottoman Empire, the *millet* system, and the principle of *'cuius religio, cuius lex'*, continued to characterise - albeit with significant differences between one state and another - the legal systems as for example in the cases of Cyprus, Egypt, Jordan, Israel, Syria, Lebanon[56].

After the fall of the Ottoman Empire, the paradigm of the Ottoman Millet was employed in the colonial law imposed by Western powers in the occupied countries between the 18th and 20th centuries[57]. For instance, colonial law stipulated that Italian authorities in the occupied territories, should respect the beliefs and religious practices of the indigenous populations[58]. Personal status, family relations, and successions were governed by local law applied by the jurisdiction of the qadi, appointed

[50] Ambrosio (2015).
[51] Bottoni (2010: 242-260).
[52] Alkan (2000).
[53] Alkan (2000:47-87).
[54] Quer (2010:278).
[55] Öktem (2008:466-472).
[56] See Donini, Scholart (2015:152-158).
[57] Rinella (2020: 103).
[58] Law nr. 857, 5 July 1882, art. 3.

by the royal commissioner, who administered justice in accordance with Islamic law on behalf of His Majesty the King of Italy[59].

In colonial legal systems, the recognition of religious jurisdictions was part of a policy aimed at balancing impositions and concessions, designed to ensure the governance of those territories and strengthen the dominant position of the colonial regime.

This hybrid system of state and religious law persisted even after the end of colonial regimes. An example in this regard is the island of Mayotte in the Comoros, a former French colony and later an overseas department, with a population that is 97% Muslim. Mayotte is the only island in the archipelago to maintain its connection with France, foregoing its independence. In accordance with Articles 73 and 75 of the French Constitution, the citizens of the island had long been allowed to apply Comorian law, essentially a religious law, as an alternative to French law, albeit only in matters of personal status. The application of local law was entrusted to the jurisdiction of *qadis*, acting as public officials, a recognition granted by France since 1841[60].

On March 31, 2011, the island became the 101st French department because of a referendum in which its citizens, while not entirely abandoning Muslim traditions, opted for the general application of French secular law in that territory. The outcome is a hybrid legal system resulting from continuous compromises and accommodations between Islamic tradition and French civil law[61].

The 1963 Constitution of Kenya guaranteed the survival of Islamic courts, whose existence had already been established by the British authorities. The survival of Islamic courts was further assured by the 2010 Constitution[62]. In Tanganyika, the regulation on local customary law allowed the application of Islamic law in matters of marriage, divorce, and successions. The legal system of Tanzania recognizes the establishment of Sharia Courts in the Zanzibar archipelago. In Ethiopia, a country with deep Christian roots, the 1955 Constitution confirmed the jurisdiction of Islamic courts established by the colonial government, with authority in matters of personal status.

In the geographic area formerly governed by the Ottoman Empire, following the colonial period, many of the newly established nation-states have retained a legal regime based on the principle of personal status.

Doctrine has referred to this system as Neo Milletism. This term has been used to indicate both the dynamics between authoritarian regimes in the Middle East and their non-Muslim citizens[63], and to refer to the Ottoman-inspired system of relations between secular states and religious communities, including Islamic ones[64].

It is with reference to this last meaning that we intend to analyze the particular system of managing religious diversity adopted by the legal systems of Israel and Lebanon.

[59] Solomi (1913:129).
[60] Uimonen, (2014: 451-468).
[61] Cavalcanti (2023: 109).
[62] Constitution Kenya, 2010, art. 169.
[63] Rowe (2007: 329-350).
[64] Tsitselikis (2007: 354-372).

3. Modern derivations of the Ottoman *millet*: Neo-Milletism in the State of Israel

The legal system of the State of Israel recognises civil significance to the personal statutes of religious communities on the model of the Ottoman *millet*.

Under the British mandatory regime in Palestine (1918 -1948), art. 83 of the Palestine Order in Council (1922) established that matters pertaining to the *status personae* were subject to the application of the religious law of the recognised communities: Jews, Muslims, and the main Christian denominations. Moreover, art. 83 additionally proclaimed communities' freedom of religion and conscience, as well as freedom of worship (within the limits of public order and morality)[65]. Furthermore, the Religious Communities (Organisation) Ordinance of 1926 established the competence, the functioning, the composition and election procedures of the religious courts, whose decisions were recognised by the British authorities in Palestine and enforced by state's courts. As in the Ottoman era, under the British rule the recognised communities enjoyed different levels of jurisdictional autonomy and Islamic courts were granted broader competences compared to those enjoyed by the Rabbinical and Christian courts.

At the foundation of the State of Israel (1948), Israeli authorities decided to maintain the *status quo*; thus, preserving the existing balance between the state and religious denominations. At the same time, the system of community self-government and personal statutes was adapted to the needs of the new-born Jewish State and served as a tool for nation-building.[66]

Israel's neo-millet incorporates religious laws into the State legal system and (Jewish and Muslim) religious institutions into the State institutional apparatus.

The Rabbinical Court Jurisdiction (Marriage and Divorce) Law of 1953[67] grants rabbinical courts exclusive jurisdiction over marriages and divorces (and some related matters) of Jewish citizens and permanent residents (but also Jews who are temporarily present in the country)[68]. If the parties agree, inheritance and adoption controversies can be also brought before the Rabbinic courts; otherwise, they are decided by the (secular) Family courts.

The Islamic courts are granted wider jurisdiction than other religious courts. Marriage and divorce of Muslims fall under the competence of Islamic tribunals. However, if the parties agree, Muslims can also litigate cases concerning, for instance, dowry and child custody before their religious *fora*. Adoption and inheritance issues are regulated by Israeli law and the jurisdiction of religious courts is also subject to agreement between the parties. *Sharia* courts may be petitioned by Israeli Muslim citizens or permanent residents whose personal status is regulated by Islamic law in their countries of origin[69].

The Druze community was officially recognised in 1957. Druze courts are regulated by the Druze Religious Courts Law of 1962 (DLCL)[70], which accorded this court exclusive jurisdiction over marriage and divorce of Druze citizens or permanent residents of Israel, as well as religious foundations (*waqf*). In other matters of personal status, such as maintenance, adoption, inheritance, custody, and the

[65] Ginossar, Colombo (1973:154).
[66] Sezgin (2010:631-654).
[67] *7 Laws of the State of Israel,* 139.
[68] Goldstein, Rabello (2006:246).
[69] Goldstein, Rabello (2006:242-243); Sezgin (2010); Cavalcanti (2022: 143-172).
[70] *17 Laws of the State of Israel, 27.*

qualification of children as legitimate children, Druze courts were granted concurrent jurisdiction depending on the agreements between the parties involved (art. 51, DLCL). In 1962, the Druze council decided to import the Lebanese Law of Personal Status of the Druze community of 1948. This law introduced important changes with regards the personal status of Druses in Israel, such as the prohibition of polygamy.[71]

Finally, each Christian community recognised by the State (Greek Orthodox, Greek Catholic, Catholic, Gregorian-Armenian-Makahite, Maronite, Syrian Orthodox, Kashadite-Inanite) has its own tribunal. Christian courts are competent in matters of marriage and divorce. They are also granted jurisdiction in controversies regarding alimony, if first petitioned by one of the parties on this matter. Subjects to the previous agreement of all the concerned parties, Christian courts also decide on matters of spousal maintenance, adoptions, inheritance issues, and qualification of minors as legitimate children[72].

Rabbinical, Muslim and Druze courts are part of the State's judicial apparatus. Rabbinical courts are supervised by the Chief Rabbinate of Israel, which is the supreme Jewish religious body in Israel. For historical and political reasons, the Orthodox stream of Judaism holds control of the Rabbinate, *dayanim* follow the Orthodox interpretation of Jewish law. Druze and Islamic courts are subject to the Ministry of Justice.

Christian courts instead are not part of the State's institutional apparatus. They are granted the status of autonomous institutions, and they are free to devise their own structure and procedural norms. They also retain full control over the appointment of judges.[73] It follows that Canon law judges, unlike judges presiding over Rabbinical, Islamic and Druze courts, are not state officials[74].

In addition to jurisdictional autonomy, recognized religious communities enjoy administrative autonomy.

As mentioned above, the Chief Rabbinate of Israel is the supreme religious authority for Judaism in Israel. However, this institution is also a statutory body regulated by Israeli law and entrusted with religious, jurisdictional, and administrative tasks.

The Chief Rabbinate of Israel Law of 1980[75] rules the composition, functions and the election process of the Rabbinical council and the Chief Rabbis. The main organs of the Chief Rabbinate are the Council, chaired by two Chief Rabbis (one Ashkenazi and one Sephardic), the two Chief Rabbis of the four major cities (Jerusalem, Haifa, Tel Aviv and Be'er Sheva), and ten rabbis elected by an *ad hoc* assembly composed of one hundred and fifth-five members, including both religious and non-religious people. The Law on Religious Public Service (consolidated version) (1971) establishes the terms of work of municipal rabbis under the supervision of the Chief Rabbinate.[76]

The activities carried out by the Chief Rabbinate and the local rabbinical councils are subject to the scrutiny of the Supreme Court[77].

[71] Karayanni (2021:131)
[72] Goldstein, Rabello (2006:242-243).
[73] Karayanni (2021:126)
[74] Sezgin (2010: 631-654)
[75] Chief Rabbinate of Israel Law, 35, L.S.I, 97, 1980.
[76] Law on Religious Public Service, *25 L.S.I. 125* (consolidated version), 1971.
[77] Bensimon (1991:123).

Under Israeli law, the Chief Rabbinate of Israel manages the supply of public religious services for Jewish citizens and permanent residents (but also for Jews who are temporarily present on Israeli territory). Moreover, it supervises the granting of *kosher* certificates by public and private agencies, it issues marriage and divorce licenses for Jews in Israel, and it decides over the validity of conversion to Judaism.[78] The Rabbinate also has a say over the authorization of *dayanim* (religious judges).[79]

Alongside spiritual and administrative tasks, the Chief Rabbinate also performs jurisdictional functions, acting as the Rabbinical Court of Appeals and, occasionally, as an arbitration tribunal in civil and family matters.[80]

Israel's attitude towards the majority religion (Judaism) and the adoption of a neo-millet structure is based on a communitarian paradigm which constructs citizenship along ethno-religious lines. The ethno-religious communities recognised by Israel's public authorities are generally regarded as homogenous entities.

However, this "oversimplified archetype of homogeneous groups"[81] hardly mirrors the reality. Most importantly, it poses serious challenges to non-Jewish minorities living in the country as well as non-Orthodox Jewish people in their daily life.

While the legal status of non-Jews has been extensively debated by legal scholars, especially with regards to Palestinian-Arabs in Israel,[82] less attention has been devoted to Jewish minorities within the (Jewish) majority of the population.[83]

The difficulties encountered by non-Orthodox Jewish people in exercising some constitutionally protected rights are indeed paradigmatic of the structural shortcomings of the Israeli model for the management of religious diversity.[84] For instance, non-Orthodox Jewish immigrants are recognised as Jews by the State of Israel and granted immediate citizenship under the Law of Return of 1950.[85] However, their "Jewishness" is often contested by the (public) religious authorities, i.e. the Chief Rabbinate and the religious tribunals acting under Orthodox religious law.

As Israel's adoption of a *millet*-like system makes religious affiliation legally relevant on some crucial matters of personal status, in particular marriage and divorce, people whose religious affiliation is contested - such as the non-Orthodox Jews - are are often left in a "limping legal status" that

[78] Being the Chief Rabbinate dominated by Orthodox Judaism, the validity of non-Orthodox conversion is generally not recognized by Israeli religious authorities. However, the Supreme court recognized the validity of Reformed and Conversative conversion performed in abroad and in Israel (*Rodriguez-Tushbeim v. Minister of Interior*, IsrSC 59(6), 721; HCJ 1031/93 *Pessaro (Goldstein) v. Minister of the Interior*, 1995, IsrSC 49(4), HCJ 7625/06 *Rogachova v. Minister of Interior* [2016]). Moreover, the Court granted to non-Orthodox Jews the right to access public ritual baths for the purposes of conversion (AAA *587/10, Conservative Movement v. Be'er Sheva Religious Council* [2016]).

[79] Parrilli (2021:67)

[80] The functioning of the Chief Rabbinate as an arbitration tribunal has been subject to censure by the Supreme Court in *HCJ 100/192 Bavli v Great Rabbinical Court and others*, 48 (2), PD 221 and *HCJ 8636/03 Amir v. Great Rabbinical Court.*

[81] Palermo (2013: 31-33)

[82] Karayanni (2021)

[83] Parrilli (2021:66-70)

[84] Parrilli (2021).

[85] The Law of Return (5710–1950) grants Jewish immigrants in Israel a nearly absolute right to Israeli citizenship. Being part of the Israeli State building project, the Law of Return was designed to encourage Jewish immigration by establishing a strong link between the nascent State and the Diaspora. The connection between ethno-religious affiliation, nationalities and citizenship has recently acquired constitutional status in the Basic Law: 'Israel as the Nation State of the Jewish People' (2018), according to which, the State shall be open for Jewish immigration, and for the Ingathering of the Exiles. (sec. 5).

jeopardizes their constitutionally protected rights: the rights to freedom of religion and from religion, the right to marry and to family life, the right to be equal before the law and to non-discrimination in the access to public religious services, as well as children and women's rights.[86]

4. The Lebanese Neo-Milletism

Lebanon is characterised by a multiplicity of ethno-religious communities whose socio-political balances between majorities and minorities have marked its history. From the 16th century, Lebanon was part of the Ottoman Empire, and then underwent French domination that began as an occupation in 1864 and was formalised into a mandate after the First World War[87]. The French mandate kept alive the confessional pluralism that characterised the Lebanese legal system even after independence was achieved in 1946. With the proclamation of Greater Lebanon and the definition of its borders, the Mandate power was faced with the problem of whether to apply a uniform secular law to a population that was strongly divided culturally and religiously or not. In spite of its secular tradition, the French Mandate was aware that the imposition of a secular law, especially in matters of personal status, would put a strain on relations between the different religious communities, believing it more appropriate to recognise a dual role for them: as communities endowed with legal personality and as constituent elements of the state's power structure.

The 1926 Constitution, promulgated under the French mandate and reformed with the Constitutional Law of 21 September 1990 in accordance with the Ta'if Agreement[88], has, in fact, outlined a legal system characterised by a strong religious, legal, and jurisdictional pluralism. The organisational structure of the state cannot, however, be understood without due consideration being given to the special relationship between the state and religious denominations, which has concrete consequences for the entire Lebanese constitutional system.

Lebanon, unlike many other Middle Eastern states that proclaim Islam as the state religion, presents itself as a multi-religious country characterised by the presence of 19 religious communities recognised and protected by the state legislature[89]. The Constitution grants these religious communities broad prerogatives that go beyond the strictly spiritual sphere, and allow them to assume legal personality and exercise spiritual functions[90].

Thanks to this link between spiritual and temporal power, defined by the constitutional legislator as *confessionalisme* in letter h) of the preamble and in Article 95 of the Constitution, and by the *communitarisme*[91] doctrine, religious identity, besides becoming an ordering principle of political representation and of the Lebanese legal system, also has a direct impact on the exercise of the three fundamental powers of the state. In addition, Article 9 of the Constitution guarantees religious freedom, as well as respect for the personal status and religious interests of the population[92].

[86] Parrilli (2021:68)
[87] Di Peri (2021).
[88] The Ta'if Accords constitute an inter-Lebanese treaty concluded to sanction the end of the Lebanese civil war (1975 and 1990).
[89] Di Peri (2012:235).
[90] Caprara (2018: 703-728).
[91] Rondot (1960:118); Corim (1992:32).
[92] Hokayem (1996).

The Constitutional provisions are supplemented by those of the *Arrêté* L/R No. 60 of 1936, adopted by the French Mandate and still in force after the 1996 amendment, whose Annex 1 recognises 19 religious communities and by which the organisation of the different communities was established and the general lines of their coexistence and cooperation were outlined. The different religious communities, endowed with administrative and jurisdictional autonomy, each apply different rules to the personal status of their members, according to the interpretation provided by their respective religious courts[93].

From the point of view of political organisation, relations between religious communities, rather than the Constitution, are regulated by the National Pact of 1943, an unwritten agreement establishing the division of public offices with the aim of creating a federation of religious communities[94]. The National Pact foresaw that the office of President of the Republic would be held by a Maronite Christian, that of Prime Minister by a Sunni Muslim, that of Speaker of Parliament by a Shiite Muslim, his deputy would be an Orthodox Greek, and so on down all the ranks of the administration. As for the composition of Parliament, according to the Covenant, the ratio of Christians to Muslims should have been 6 to 5, based on the numerical strength of each community, as ascertained by a 1932 census[95].

Although the National Pact was intended to unite Lebanese citizens beyond their religious affiliation, it only exacerbated tensions between the different communities, tensions that exploded into a religious conflict that the 1989 Ta'if Agreement put an end to. Among the principles underlying the agreement, which led to a constitutional amendment in 1990, was the abolition of political confessionalism and the balancing of power between the different communities represented in parliament, with a reduction in the political weight of the Christian Maronite community in favour of that of the Sunni Muslim community. As a result of the Ta'if Agreement and the 1990 constitutional amendment, an equal division of the number of parliamentarians between Christians and Muslims and proportionality for the smaller communities was established.

With regard to regulatory and jurisdictional confessionalism, in Lebanon questions of personal status are still subject to the religious law of individual communities, the effects of which are fully recognised by state law. Lebanon's 19 recognised religious communities have full administrative, legislative and jurisdictional autonomy[96].

This form of legal pluralism derives from Article 9 of the Constitution, which refers to the different confessional rights in matters of personal status[97], plus Article 2 of Arrêté L/R No. 60 of 1936, which grants all recognised confessions the right to apply their own confessional family law. Catholic communities share their own rules on personal status, whereas the Druze community is governed by the Law of 24.02.1948 on the Personal Status of the Community, which provides for the application of Islamic law according to the Hanafi interpretation.

The Arrêté of 1936 specifically allows the various religious communities the possibility of applying the principles, rules and codes that governed them under the Ottoman Empire. On the

[93] *Arrêté* L/R n.60 del 1936, art. 2. There are fifteen denominational laws on personal status applied on Lebanese territory for eighteen religious communities. Some Christian communities share the same discipline.
[94] Ryan (1985:40).
[95] Donini, Scolart (2010:152).
[96] Bilani (1985:267).
[97] Dabbous (2017).

contrary, the adoption of procedural codes, statutes or reforms of personal status regulations are subject to the approval of the state legislature[98].

Religious law is enforced by community confessional courts, which, with the exception of the Christian courts[99], are part of the state judicial organisation. The confessional courts are granted exclusive jurisdiction over disputes concerning personal status involving members of the relevant community. This competence derives from the express wish of the state[100] to defer to the confessional authorities in matters of personal status: it is the state that recognises and legitimises the powers of communities in matters of personal status and the state has the power to control, limit or abolish them[101].

Religious jurisdiction in the Lebanese legal system is established *ratione personae* and *ratione materiae*. All matters that are not subject by law to religious jurisdiction are subject to state jurisdiction and law[102]. Religious jurisdiction is limited to members of the relevant religious community. Community membership is determined at birth on the basis of paternal religious affiliation[103] until at least the age of majority[104].

For Islamic communities, religious jurisdiction *ratione materiae* is broader than that of the religious courts of other communities. Thus, for example, the concept of family law and personal status takes on a different extension for Islamic law and for the law of Christian communities. Under Ottoman rule, members of Christian communities were subject to the confessional discipline of personal status with regard to marriage, filiation, adoption, divorce and nullity of marriage, with the exclusion of the patrimonial effects of marriage and succession subject to imperial law. This arrangement was also maintained by the Lebanese legal system.

Article 17 of the Law of 16 July 1962 indicates the 21 matters subject to the jurisdiction of the Islamic courts, which also extends to the property the effects of marriage and divorce, as well as successions. There is thus a relatively unique situation in the Lebanese legal system: the personal status of Muslims extends to all aspects of family law and succession, whereas for Christian communities these matters are regulated by civil law and, more specifically, by the Law on Succession of Non-Muslims of 23 June 1959.

It should, however, be pointed out that numerous provisions of civil law regulate matters that indirectly influence the regulation of the personal status of members of confessional communities, such as, for example, donations, capacity to act and guardianship, creating a continuous interaction between civil and confessional law. In addition, the enforcement of community court rulings is subject to the civil courts.

The civil courts and, more specifically, the Court of Cassation are also responsible for resolving conflicts of jurisdiction between civil and religious courts as well as between the courts of different

[98] Moukazel Héchaime (2010:59).
[99] Law 16 July 1962; Law 5 March 1960.
[100] Maḥmaṣānī, Masarrah (1970).
[101] Moukazel Héchaime (2010:131). See also Najm (2004:131 ff).
[102] For the Christian and Jewish communities, the reference is the Law of 2 April 1951, for the Sunni and Jafarite communities, it is the Law of 16 July 1962, for the Druze community, it is the Law of 24 February 1962. For a more in-depth study, Bilani (1985:268).
[103] Law 7 December 1951.
[104] Any change in personal status and religious affiliation follows specific procedures and is subject to registration (Law of 2 April 1951, § 15; Law of 16 July 1962, §§ 61-62).

communities. The Court also ensures that the fundamental rights of the parties and public order are respected, although this review cannot go into the substance of the dispute, nor can it concern the interpretation of Community law[105].

Since the 1950s, civil society appeals, and legislative proposals aimed at unifying and secularising Lebanese family law have multiplied. However, the strong opposition of the community's religious leadership has, so far, led to the failure of any secularisation attempt.

5. Neo-Milletism in Israel and Lebanon: Concluding remarks

The *neo-Milletism* of Israel and Lebanon, represents an exemplary example of personal federalism in geographical areas and legal systems influenced by the religious legal traditions. As described in this article, this form of organization is grounded upon the principle of personality rather than the principle of territoriality.[106] In addition to this, it is deeply influenced by the Islamic and Ottoman legal traditions, which emerges in the adoption of the millet-like system to govern complex and plural societies.

In both Israel and Lebanon, in fact, irrespective of the state control over a particular territory, communities are defined on a religious basis, and they possess legal personhood for constitutional purposes. Furthermore, they exercise self-governing powers, including the power to apply their religious laws in sensitive matters, such as personal status and family law, which are crucial to the definition of the individual (and communitarian) identity.

The *millet* system has often been considered particularly effective in achieving the goals of protecting minority identities and realising intercultural dialogue between different religious communities, as well as between the communities and the state. It was observed that this type of system emphasises power sharing, taking care to establish a system of conflict rules applicable to disputes between the different legal orders, religious and secular, recognized within the state[107].

While these positive aspects can be recognized, it should also be noted that, in its practical implementation, the personal federalism scheme, without the proper adjustments, can lead to diametrically opposite results.

Neo-Milletism, as a model of personal federalism, reveals one major criticality, at least in its application by the Israeli and Lebanese legal systems. The reference is to the hermeticity of the system, which results in insufficient intercommunal interactions.

In addition, the constraining nature of the system must be highlighted. In principle, it is the individual who originally decides to self-identify with a particular community and then formally 'registers' this identification to make it enforceable against other communities and the state[108], "The problem with such a process, however, is that adherence implies exclusivity, thereby contributing to the essentializing of identities. When a citizen 'chooses' a community, he or she waives the right to identify legally with another community. In that way, personal federalism tends to discourage *métissage*"[109].

[105] Code of Civil Procedure, Art. 95 c. 3; Supreme Court 25/2008, 19.05.2008.
[106] Gaudreault-Desbiens (2010:159-180).
[107] Gannag (2001:239).
[108] Nootens (2004:254).
[109] Gaudreault-Desbiens (2010:162).

Finally, in a system of personal federalism, there is a risk of accentuating the disadvantaged position of the minorities within the minority by accentuating the so-called 'paradox of multicultural vulnerability'[110]. In this respect, the instruments provided by the legal systems under scrutiny are not adequate to ensure the respect of individual rights within the groups. Nor do they avoid the risk of the emergence of forms of "plural monoculturalism"[111], whereby different minority groups coexist without ever interacting, undermining social cohesion and, consequently, the unity of the state.

At the same time, at least two positive aspects of the neo-*millets* should be highlighted. Firstly, the system guarantees a space of self-determination within which minority groups can constantly define and re-define their identity, free from external impositions and assimilationist attempts[112]. Moreover, the guarantee of a space of autonomy for minority groups makes it possible to better understand (and manage) the complexity of social contexts characterised by intricate forms of legal pluralism[113].

Considering these elements, a reform of the system would be desirable that, while respecting its origins and reasons, would take greater account of the instruments of individual freedom, the guarantee of due process and the principle of equality, as well as the reality of overlapping personal identities and the possibility for every individual to belong to different groups. This also implies the guarantee of the 'right to exit' the community, which would make the system more flexible. The recognition of spaces of autonomy, indeed, if not accompanied by appropriate instruments of guarantee, ends up preventing the state from the right (dynamic) balance between the preservation (and even promotion) of the cultural or/and religious identities and the respect of individual rights.

[110] Shachar (2001:3).
[111] Sen (2006:156).
[112] Kymlicka (1995:183).
[113] Parolari (2016:185).

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