Imams in Western Europe
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The Italian legal system and imams

A difficult relationship

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Abstract

Nearly all imams in Italy are self-educated. In their everyday life they often have precarious jobs, and they perform their religious functions in their spare time. In their role as imam they play a very important role in local Muslim communities. This chapter analyses the status of imams in Italy, underlining how the social context and the legal framework that regulates church-state relations deal with non-Catholic issues in Italy.

Keywords: Islam in Italy, church-state relationship, Catholic Church, constitution

1 Religious ministers in Italy

Italy has a long and well-established tradition of church-state relations, which has been strongly influenced by the role played by the Catholic Church (Dalla Torre, 1995; Glenn, 2014; Netton, 2006). The most important results of this peculiar legal system are found in Articles 7 and 8 of the 1948 Italian Constitution. Article 7 is devoted to the relationship between the state and the Catholic Church, whose organization and structure are considered the prototype for religious denominations by the Italian government (Colaianni, 2012). The first section of Article 7 establishes the mutual independence and sovereignty of both the state and the church. The second section of Article 8 states a similar (albeit less strong) principle guaranteeing the free organization of denominations other than Catholicism. The second section of Article 7 affirms that the relationship between the state and the Catholic Church is ‘regulated by the Lateran Pacts (1929)’ and that any change to these pacts, if accepted by both parties, ‘does not require the procedure of constitutional
amendments’. In other words, in case of a bilateral agreement, a legislative – not a constitutional – act is sufficient to amend the pacts and regulate the connection between the state and the Catholic Church. The third section of Article 8 affirms that the relationship between religious minorities and the state is also regulated by legislation. This legislation must be based on specific agreements called intese (singular: intesa), which can be literally translated as ‘agreements’ between the state and religious denominations (Casuscelli, 2008). In other words, both the second section of Article 7 and the third section of Article 8 establish the ‘bilateralism principle’, which is a direct consequence of the religious autonomy established in the first and the second sections of the same articles (Bouchard, 2004; Varnier, 1995).

The ‘bilateralism principle’ requires the state to regulate questions regarding the specific needs and peculiar identity of a denomination through agreements with the concerned religious authorities. Once they have been signed by the Prime Minister and the representative of a religious organization, both Accords (which regulate the relationship between the state and Catholic Church) and intese (which regulate the relationship between the state and religions other than Catholicism) need to be ratified (Article 7, Section 2) or approved (Article 8, Section 3) by a legislative act of the Italian Parliament. This kind of act is an atypical form of legislation because, once approved, it can only be amended through a new agreement between the state and the concerned denominations: it is not possible for the parliament to make an amendment through unilateral legislation. In this way, the Catholic Church and some other denominations (i.e., those that have signed an intesa) have the guarantee that their legal status cannot be altered without their consent (Ferrari, 1993).

Now, with this system of bilateralism two main problems arise. First, it presupposes the existence of a relatively comprehensive religious institution that is capable of representing a denomination at a national level. This is a requirement that has proved problematic for some religions, including Islam (Decaro Bonella, 2013). The second problem is generated by the excessive amount of discretion given to the government to decide whether to accept or reject a denomination’s proposal of entering into negotiations. ¹ Furthermore, these problems decrease by the principle stated in the first

¹ In fact, so far as the relationship between the State and confessions is concerned, legislative Act no. 400 of 1988 attributes the general competence to the Council of Ministers. Legislative Decree no. 300 of 1999 gives some specific competences to the Ministry of Internal Affairs, such as those referring to the ‘guarantee of the order and public safety’ and the ‘guarantee of civil rights, including those of religious confessions, of citizenship, immigration and asylum’.
section of Article 8, under which ‘all religious denominations are equally free before the law’. This principle implies that there cannot be a non-constitutionally based distinction between not only the Catholic Church and other denominations, but also between minority religions that have signed an intesa with the state and those that have not yet done so (Tozzi, 2011).

As a matter of constitutional principles, the absence of an intesa cannot affect the right of a religious group or its members to worship freely; Articles 19 and, above all, 20 of the Italian Constitution clearly affirm that the religious character or religious aim of an association or institution cannot justify either special legal limitations or greater fiscal tax on their constitution, status, or any of their activities (Di Marzio, 1999; Finoccchiaro, 2012; Fiorentino, 2006; Ricca, 2000). Yet the practical implementation of these constitutional principles has revealed many interconnected difficulties.

2 The intese and the 1929 Act

One of the difficulties regarding the practical implementation of the constitutional principles is the fact that agreements based on both Article 7 (Section 2) and Article 8 (Section 3) are used by the state to concede a set of rights or benefits. In this way, the principle of religious freedom becomes a matter of specific accords that are subject to the will of public actors such as the Italian Government – which, as mentioned above, has great discretion in the implementation of Section 3 of Article 8.

In the last 30 years the practical enactment of Section 3 has been characterized by the phenomenon of intese fotocopia (‘photocopy agreements’): the substantial similarity of all twelve intese that have been signed by minority religions. As a result, the large majority of these agreements have established a de facto common legislation, when approved by the parliament, which is far from being considered general legislation (Carnelutti, 1951; Crisafulli, 1968). In other words, while this legislation is common to all of the religious denominations that have an agreement with the state, the provisions of the legislation cannot be applied to denominations that have not yet signed an intesa (Randazzo, 2008). This is why minority religions see the intesa more as an instrument of political legitimation than as a legal opportunity to express their specific needs and identity in the Italian legal system, which also explains why common legislation has given rise to a rush of requests for intese (Alicino, 2013a).

2 See http://www.governo.it/Presidenza/USRI/confessioni/intese_indice.html
The absence of any procedure regulating the negotiations between the state and religious denominations can turn the discretion of the government into obviously non-constitutional and unwanted forms of discrimination towards religious denominations that are excluded from the system of common legislation established through the photocopy agreements phenomenon. In fact, these denominations are regulated by the 1929 Act (no. 1159) on ‘admitted religions’, approved during the fascist regime, which legitimizes even greater discretionary power of the Minister of Internal Affairs. These denominations are excluded from the more favourable provisions of the legislation that is based on agreements between the state and some religions – a phenomenon that becomes even more evident in the fact that denominations possessing an agreement are no longer subject to the 1929 Act, the provisions of which are entirely replaced by the far more favourable rules in the legislation that approves an intesa.

We must keep in mind that the 1929 Act was designed to regulate traditional denominations other than Catholicism – a conceptualization of minority denominations based on the religious geography of the first half of the twentieth century. This geography has now changed completely (Laurence, 2006b) under the pressing processes of immigration and the elusive phenomenon of globalization (Ferrarese, 2012; Mazzola, 2010). This explains why the provisions of the 1929 Act do not always meet the needs of denominations whose presence in Italy is relatively recent (Allievi, 2000, 2002), including Islamic organizations and their specific religious ministers, usually called ‘imams’ (Laurence, 2006a).

3 Religious ministers and State (secular) law

It is important to keep in mind that, in regard to the civil status of religious ministers, there is a substantial difference between the provisions of the legislation from bilateral (church-state) agreements and the provisions established by the 1929 Act. The bilateral legislation implies an automatic recognition of religious ministers, to whom some important rights and civil benefits are granted simply because they exercise specific functions within a given denomination and in accordance with a corresponding religious law (Ferrari, 2008).

This is evident when considering the legislation ratifying the agreement between the state and the Catholic Church, i.e., the 1985 Act (no. 121), which ratified the 1984 Agreement of Villa Madama between the Holy See and the Italian Republic and almost entirely modified the 1929 Lateran Pacts. This agreement states: ‘appointments to ecclesiastical offices are wholly made
by ecclesiastical authorities.’ This means that in the Italian legal system the Catholic authorities must only ‘inform the competent civil authorities of the appointments of archbishops and diocesan bishops, of coadjutors, of abbots and prelates with territorial jurisdiction, including parish and other official appointments to ecclesiastical offices relevant to state administration’ for the appointed individuals to be recognized as religious ministers.

This substantial difference in law is also affirmed through the bilateral legislation based on intese that has been signed and approved until now. This legislation affirms very similar provisions to those stated in the 1984 Accord between the state and the Catholic Church for Lutheran pastors, Evangelical ministers, Orthodox priests, Jewish clergies, and Buddhist masters – those who in the language of the intese are called ministri di culto, which can be translated as ‘ministers of religion’ or ‘religious ministers’.

This clearly demonstrates the fact that in both the 1984 Agreement (between the state and the Catholic Church) and the common legislation based on intese the principal reference for recognizing the civil status of a religious minister is the law of a denomination, rather than the state’s law: in this matter, the state’s law simply refers to the religious law. In practice, once a person has been defined and recognized as a minister by and within a religious community, he or she is considered a religious minister by the state as well. In brief, as far as the status of religious ministers is concerned, the rules that govern the internal activities of religious groups have almost automatic civil effects within the Italian legal system.

By contrast, under the 1929 Act a religious minister can have a civil status only after the public authority has formally recognized and appointed him or her. Moreover, the religious minister him- or herself must submit a specific request to the Italian Minister of Internal Affairs, who has to check whether the claimant meets the criteria established by Article 3 of the 1929 Act and by the relative Royal Decree of 1930 (no. 289). To be recognized as a religious minister by the state, the request must contain:

1. The religious act through which the minister was appointed by the religious authorities.
2. The documents showing that the designation was made in accordance with the religious rules of the denomination concerned.
3. The documents affirming that the religious minister is an Italian citizen, especially if he or she is planning to celebrate religious marriages with civil effects.

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3 Regio Decreto 28 febbraio 1930, n. 289, Norme per l’attuazione della legge 24 giugno 1929, n. 1159, sui culti ammessi nello Stato e per il coordinamento di essa con le altre leggi dello Stato.
In addition, the claimant must demonstrate the ability to speak Italian, and to be prepared to give all further and necessary information for a correct and complete ‘legal enquiry’. Without government approbation, the state cannot recognize civil effects to acts, such as religious marriages, made by ministers of denominations governed by this law.

It is important to note that most of these criteria are especially formed on the basis of Catholic thinking: it is assumed that a hierarchical structure will be built around a ‘church’, in the Christian sense of the term. Because of the central role of a pastor or priest, it is assumed that those who perform religious rites will also represent the religion. Conceived as a general principle, this has become the principal reference for the definition of a religious minister for all religions, including denominations other than Catholicism. This is also evident by the fact that in this field the above mentioned 1984 Agreement of Villa Madama was followed by similar intesa between the state and some other religions. The Waldesian Church was the first non-Catholic religion to sign an intesa in 1984. Since then, all of the other intese have shared an identical content, which explains the term ‘photocopy agreements’ (D’avack, 1989).

It was not without a reason that when the bilateral-common legislation procedure was extended in 2013 to some very ‘new’ religious organizations – which have comparatively more differences from the Catholic Church – the provision regulating the civil status of religious ministers generated some very complex judicial disputes. A telling example is the agreement between the state and the Italian Buddhist Union (Unione Buddhista Italiana, UBI), whose provisions have produced intricate legal paradoxes through the ‘strange’ relationship between the common legislation based on intese and the 1929 Act on admitted religions.

On 9 June 2009, two dharma masters of the Temple of Shôbôzan Fudenji, a Buddhist organization that is member of the UBI, requested to be recognized by the state’s authority so that they could celebrate religious marriage with civil effects. In accordance with the provisions of the 1929 Act and after a long administrative dispute, the Italian Minister of Internal Affairs appointed these dharmas as religious ministers in January 2013. Twenty

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4 See in particular the six intese that were signed between 1984 and 1993 by: the Waldesian Protestant Church in 1984 (approved by Act 11 August 1984, no. 449); the Christian Churches of the Seventh-day Adventists in 1986 (approved by Act 22 November 1988, no. 516); the Assemblies of God, a Pentecostal Church, in 1986 (approved by Act 2 November 1988, no. 517); the Union of Jewish Communities in 1987 (approved by Act 8 March 1989, no. 101); the Christian Evangelical-Baptist Union in 1993 (approved by Act 2 April 1995, no. 116); and the Lutheran Church in 1993 (approved by Act 29 November 1995, no. 520).
days later, however, an intesa between the State and the UBI association entered into force, completely replacing the jurisdiction of the 1929 Act with respect to all members of that association.\(^5\) This means that the dharma masters were no longer considered religious ministers under the 1929 Act, but they could acquire the status of a religious ministry through the norms of the 2013 agreement. From the dharmas’ point of view, it did not seem to matter whether the 1929 Act was effective – which was not, in fact, the case. The 2013 intesa did not provide any rule regulating the civil effects of religious marriage, which, as said before, is the main, if not the only, reason the dharma masters wanted to be appointed by the state. Since the 2013 agreement entered into force, however, marriages celebrated by those masters no longer have a civil effect, unless the Temple of Shôbôzan Fudenji were to choose not to be part of the UBI association anymore and to re-submit itself and its members to the less favourable provisions of the 1929 Act.

This example clearly shows that, concerning the civil status of religious ministers, Italian legislation regulating the church-state relationship does not always meet the needs of ‘new’ (i.e. very different) denominations (Alicino, 2013b). This seems even more manifest in relation to the civil status of Muslim imams, as discussed in the next section.

4 Are imams religious ministers?

Under Italian law, the expression ‘religious minister’ is a nomen iuris that the state uses to define the civil status of the carriers of religious office’ (Fiorita and Milani, 2010; Licastro, 2008; Parisi, 2014). At the same time, however, the law affirms that the recognition of a religious minister is a result of a connection between the state’s legal system and the law of a religion (Grimm, 2013). In other words, the state attaches the civil status of a religious minister to those who, within a denomination, are already considered as such (Benigni, 2012; Cardia, 2010). Thus, as far as the civil notion of religious ministers is concerned, the connection between the state’s law and the law of a given religion is based on two main features:\(^6\)

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5 See Act 31 December 2012, no. 245, which approved the intesa between the State and UBI signed on 4 April 2007.

The autonomy of a denomination in deciding who is able to play the specific role of a religious minister.

The right of the state to formally recognize the status of a religious minister, i.e., verifying whether a person appointed by the religious community effectively exercises activities that, within the community, distinguishes him or her from other ‘normal’ believers (Bettetini, 2000; Licastro, 2005; Mirabelli, 1975; Onida, 1990).

Taking these elements into account, in this section I consider the figure of the imam, analysing him in light of the state’s law regulating the civil status of religious ministers.

Historically speaking, the figure of the imam dates back to the first period of Islam. He is in this context considered to be the guide of community prayers – not only the Friday prayer, but also other ones. He is, so to say, a person who, standing in front of other believers, recites some religious formulas and performs typical religious gestures such as bowing and prostrations (Madelung, 1986). The fact remains that imams are neither priests nor clergymen who, in Christian milieus, are purposely ‘consecrated’ for the role of religious ministers (Ciotola, 2007). Instead, Imams are generally selected at a local level (Saint-Blancat, 2008): members of a Muslim community choose someone who is considered knowledgeable and wise at that level, someone who understands the Quran and is able to recite it correctly and nicely (Branca, 2008).

We can therefore argue that generally an imam is a respected member of a given Muslim community or organization. In some communities, a Muslim believer may be recruited and hired to be an imam after undergoing special training. In other cases, imams are chosen from among the existing members of an Islamic group without any specific training programme. There is no universal governing body to supervise imams; everything is done at the community level.

The absence of such a body explains why in Italy, as well as in other European countries, imams are almost all self-educated as religious ministers. During the week they usually take care of duties other than religion. To see them working as imams, one must often go down into some underground parking or into apartments that have been converted into mosques, where minarets and other Islamic symbols are only present in pictures or paintings hanging on the wall (Casale, 2014; Rhazzali and Equizi, 2013).

See, for example, CO.RE.IS, Statuto degli Imam della Federazione dell’Islam Italiano, at http://www.coreis.it/Testi/STATUTO%20DEGLI%20IMAM.PDF.
In any case, imams fulfil a crucial role in Muslim communities, which all together make up more than one and a half million believers in Italy, the majority of whom are immigrants. We must further keep in mind that many mosques and their imams provide a range of welfare services that strongly affect the integration process of immigrants. Imams thus play an important social role (Bombardieri, 2010). All things considered, however, there is no doubt that imams’ most important function is a religious one (Vincenzo, 2010). From the root meaning of the word ‘imam’, which is ‘in front of’, the imam comes to be the leader in prayer, and hence, by extension, the religious and political head of the whole Muslim community, whose task is to lead it in fulfilment of God’s commandments. Their other functions, including the social and political ones, come from and are based on their religious authority (Pace, 2004). In fact, imams are recognized through their everyday leadership, whose legitimation derives directly from their religious role (Arnold, 1999; Sordel, 1986).

As far as Islamic organizations are concerned, the theological absence of a sacred ordination does not necessarily imply the absence of persons who are capable of managing the sacred rules of Islam – persons who have the essential duty within Islam to ensure the correct observation of the transcendental law (Frégosi, 2003). This is more than enough for taking into consideration the status and role of imams, even from the state’s point of view (Colaianni, 2003).

The real obstacle, then, is not the peculiar figure of the imam in comparison with the traditional – mostly Christian – notion of religious ministers. Quite the contrary, these obstacles are created by the fact that in Italy Muslim communities are usually not recognized as a religious creed: there is, then, no way to establish an effective connection between the state’s legal system and the law of an Islamic community. This has two interconnected consequences: first, Muslim communities cannot fully affirm their autonomy as a religion; and second, the state cannot formally recognize the status of any imam simply because it cannot verify whether individuals appointed to this role by the religious community are effectively different from the other (normal) lay believers.

5 The relationship between the state and Islamic organizations

Any community with religious aims is able to operate within the Italian legal system without authorization or prior registration. The only limit is based on the protection of public order and common decency. Islamic organizations
or their legal entities may choose among various types of legal organization. They, for example, may constitute themselves as a ‘non-recognized association’ in accordance with Article 36-38 of the Italian Civil Code: this model implies independence in property matters and the possibility of receiving donations and the like. It is also used by political parties and trade union organizations, and it is the simplest model of association that does not provide for particular control from the state’s authorities. According to Articles 14-35 of the Civil Code and the 2000 decree of the President of the Italian Republic (no. 361), entities can also choose the form of a ‘recognized association’, which provides legal personality through registration at a local prefecture. The civil capacity of Islamic organizations may also be obtained through Article 16 of the Disposizioni sulla legge in generale (‘Provisions on law in general’), which, based on the principle of reciprocity, may grant foreign Muslim entities the same rights guaranteed to Italian legal bodies (Ferrari, 2011).

However, under all of these provisions there is almost no legal difference between an association with no religious purpose and an organization that is specifically based on religious aims. This is why attention is normally focused on the above-mentioned 1929 Act, which provides entities with the possibility of obtaining a legal capacity on the basis of their religious aims. Yet, even considering these provisions, there are still obstacles to the religious autonomy and legal recognition of Islamic organizations. For example, the 1929 Act may subject these groups to the control of the state, which is given a large amount of discretion; under this act, the state’s authorities can annul the decisions made by the representatives of a religious entity, and may even replace them with state commissioners.

In addition, because of the lack of unitary representation at the national level and the strict interpretation of the Italian public order, Muslim groups are normally regulated by the general legislation concerning associations, in its double version of recognized and non-recognized associations. This means that Muslim groups are not only excluded from some important privileges – like those established through the intese and (albeit with problems) the 1929 Act –, but also from the possibility of being legally recognized because of their religious aims. In other words, Muslim organizations can only enjoy the legal benefits guaranteed to other, non-religious, private associations.

The only Islamic organization that is not an association and that, in accordance with the 1929 Act (no. 1159), has been recognized as a religious legal entity is the Italian Centre of Islamic Culture (Centro Islamico Culturale d’Italia). See the decree of the President of the Italian Republic, 21 December 1974.
6 Islamic organizations

As in other European countries, there is no single national Muslim organization in Italy that represents all Muslims and Islamic institutions in the country (Donini, 2002; Guolo, 2000; Mancuso, 2012; Pacini, 2008). There are many local Islamic groups; others refer to either a transnational Islamist movement or an entity of a foreign state. There are a large number of immigrants in Italian Muslim organizations that, when wishing to operate in Italy, must respect the principles of the Italian Constitution. These principles must be taken into serious consideration to establish a proper connection between the state and the Islamic organizations that will solve questions, like those concerning imams. In this sense, the first step is to clarify whether these Islamic organizations can be defined as religious denominations in the legal sense. The problem of defining what a ‘denomination’ is has become significant in Italy with the spread of ‘new’ religious organizations, including Islamic ones, whose presence in the country is relatively recent. As there is a complete absence of statutory definitions, some say that the state is neither able nor competent to provide such a definition, so the state should rely on the self-assessment of the adherents of a group that wishes to be recognized as a religious denomination.

In other words, if the members of a community share the belief that they form a religious denomination, in general the state must accept their assessment. Still, some decisions of the Constitutional Court state that the term ‘denomination’ must have an objective and not a subjective basis.\(^9\) This is why some scholars have identified selected characteristics that a community must necessarily have to be considered a denomination. One of them is the ‘belief’ in a transcendental entity – not necessarily God – that is capable of answering fundamental questions about man’s origin and destiny, providing a moral code, and creating an existential interdependence between the members and that transcendental reference. Most importantly, these groups must have a basic organizational structure (Ferrari, 1995).

Now, whichever of these paradigms are used it can be inferred that in Italy many – if not most – Islamic organizations can be defined as religious. This being the case, these organizations can (at least potentially) sign an agreement with the state in accordance with both the general principles of Italian Law and Article 8 of the 1948 Constitution.

7 Bilateral (church-state) legislation

But what actually is the original aim of the bilateral legislation based on intese? To answer this question, it is important to keep in mind some of the Constitutional Court’s decisions, which state that the bilateral instrument of intese is mainly conceived for two interrelated purposes.¹⁰

First, it is intended to facilitate and promote collaboration between the state and religious denominations, which is the precondition for granting the denominations public prominence within the state’s legal system, as explicitly stated in the 1948 Constitution. This is a peculiar aspect of the constitutional order that, in fact, marks the difference between the limited Italian secularism model and the French principle of laïcité (‘secularism’) – a principle that is based on strict separation between the state and religions, and that therefore tends not only to relegate ‘religious factors’ to the private sphere (Laurence and Vaisse, 2007), but also to assimilate religious diversity into the founding principles of the French Republic (Robert, 2006; see also Jouanneau, Part I).¹¹

The second purpose is that bilateral legislation based on Section 3 of Article 8 highlights the specific characteristics of a single denomination. This is because those characteristics risk being sidelined by the Parliament’s unilateral legislation that, given its general-generic nature, is less capable of responding to the particular needs and peculiar identity of different religious groups. For these reasons, bilateral legislation may be a suitable instrument for solving the questions related to the presence of Islamic organizations in Italy. In particular, it could be an appropriate mechanism for regulating imams – perhaps also including their training, which, as some have claimed, seems to be one of the most important steps in the process of Muslims’ integration (Ferarri, 2013).

It should be noted that the training of imams was neglected in Italy until a few years ago: while there had been some initiatives to educate imams from the Muslim side, public institutions preferred to avoid direct involvement. This situation came to an end in 2012, when a number of North Italian universities (namely, the Universities of Come, Alessandria, Milan, Padua, and the Catholic University of Milan) signed an agreement with the Minister of Internal Affairs in support of a course for the training of ‘Muslim religious leader(s)’ (see also Pallavicini, Part II). The Minister affirmed that

¹⁰ The Italian Constitutional Court, Decision no. 346 of 2002.
the state would actively participate in this training programme, thereby facilitating the possibility that imams and other Muslim leaders would obtain legal recognition and be appointed in accordance with the 1929 Act, which would also be particularly important for acknowledging the civil effects of Muslim marriages.

This training project was mainly based on the experience of other European countries. It does not provide a religious curriculum. Instead, it is intended to impart knowledge of the state’s cultural and legal system, including family law, gender relations, and interreligious dialogue: themes that may help imams and other Muslim leaders better understand the specific connotation of Italy’s principle of secularism, which, as mentioned earlier, is far from strict (Alicino, 2009). Training imams in Italy does not, then, imply religious teaching. Rather, it provides citizenship education, through which imams can learn about the place where they live and work and become more familiar with the culture, history, tradition, language, and values (including the constitutional principles) of the Italian State. At present, most imams in Italy come from Muslim-majority countries and know little about the country in which they conduct their activities as religious leaders. Given the role they play within the religious communities, training imams in Italy is also (if not mainly) considered a way of promoting the integration of Muslims into Italian society.

8 The Italian State and Islamic organizations: A possible collaboration?

The position of imams in Italy leads to the observation that the usual integration approach between Islamic groups and state’s authorities should be revised and re-evaluated (Colaianni, 2009; Consorti, 2008; Macri, 2007; Rivetti, 2007; Varnier, 2007). This is particularly true with regard to the question of training imams, which should not be solved by unilateral legislation that may generate forced assimilation and, perhaps, discrimination against Islamic organizations. Instead, these questions should be solved through active collaboration between the state and Muslim communities. The only available instrument for implementing this collaboration is stated in Section 3 of Article 8 of the Italian Constitution. According to this article, agreements may lead religious organizations to be active parts of the Italian legal system – which includes and presupposes the respect of constitutional principles. On the state’s side, though, this bilateral system necessarily implies the responsibility of the public authorities to treat Islamic groups
the same as other religious organizations, providing the same range of rights and benefits (Aluffi Beck-Peccoz, 2004).

Within the provisions of intese, the state and Islamic organizations can provide essential criteria, such as training programmes for imams as religious ministers recognized not only by their own organization, but also within the state’s legal system. This would also give a new impulse to the constitutional instrument of intese, which can be finally used to support the peculiar characteristics of religious groups, rather than extending the phenomenon of photocopy agreements – a phenomenon that is not really consistent with the original scope of the bilateral system provided by Section 3 of Article 8 of the Italian Charter.

Some Muslim organizations have negotiated with the government to sign an intesa. This is the case for the Unione delle Comunità Islamiche d’Italia (Union of Islamic Communities and Organizations in Italy, U.CO.II), which, only two years after its establishment in 1990, publicly manifested that intention, prepared a draft agreement, and sent it to the government. Other Islamic organizations followed that same path, like the Associazione Musulmani Italiani (Association of Italian Muslims, AMI) from 1994 and the Comunità Religiosa Islamica Italiana (Italian Islamic Religious Community, CO.RE.IS, 1996; see Pallavicini, Part II; Acciai, 1995; Musselli, 1997; Tedeschi, 1996). It is noteworthy that from these drafts have come important efforts to adapt the status and position of imams and other Muslim authorities to the notion of the religious minister as established in all of the agreements between state and religions signed in Italy as of now (Cilardo, 2009).

All these efforts, however, have not been taken into consideration by the Italian public authorities, who have chosen instruments other than section 3 of Article 8 to regulate the state’s relationship with Islamic communities. For example, in 2005 a Consulta per l’Islam italiano (Consultative Council of Italian Islam) was established by the Italian Minister of Internal Affairs (Ferarri, 2007). Since then, the council has been preparing documents to reaffirm the values of a secular state and religious freedom as well as encourage the creation of a federation of Islamic organizations.

In 2010 a Comitato per l’Islam Italiano (Committee for an Italian Islam) made up of nineteen members – representatives of Islamic organizations, scholars, professors, and journalists who are experts in Islam – was established by the Minister of Internal Affairs. This committee has been acting as a consultant, and the ministry has been listening to its views on some current questions. This approach has also been followed at the local level, where consultative forums with representatives of the local Muslim
community and experts in law and religion have been established, for example in Milan (Alicino, 2011).

After a new government was established in November 2011, the Minister for Cooperation and Integration created a permanent conference on ‘Religions, Culture, and Integration’ in March 2012 with representatives of Muslim organizations and experts in Islam and in other religions. This conference was essentially conceived of as a space for meetings and seminars rather than as a consultative or decision-making body.

There was also a Memorandum of Understanding signed in 2015 between the Department of Penitentiary Administration (DAP) and the Union of Islamic Communities and Organizations in Italy (Unione delle Comunità e delle Organizzazioni Islamiche in Italia), which may be seen as an important effort towards a more reasonable approach towards the growing presence of Muslim inmates in the Italian prison system (Ministero della Giustizia 2015).

9 Conclusion

The Italian approach toward imams seems to be based on the fact that Islamic organizations are ‘more other’ (Allievi, 2009) than organizations that are allegedly more compatible with the traditional system of relations between church and state in Italy – a system established through the implementation of Articles 7-8 of the Constitution and the 1929 Act. This approach was originally conceived in reference to a specific religious geography that has now changed completely (Tozzi, 2009). It was tailored for a substantially mono-cultural society, and is therefore unfit to deal with today’s religious reality in Italy. That is why this approach that seems attractive to some denominations can also be seen as a systematic disadvantage, if not a form of discrimination, by other creeds and their members (Fiorita, 2003). This is evident from the fact that, since the 1948 Constitution entered into force, there has been a sort of ‘cold peace’ between the state and ‘new’ denominations (in primis Islamic denominations) (La Croce, 2003).

The recognition of Islam in Italy still has a long way to go. In the meantime, Muslims will continue organizing themselves and numerous initiatives have been taken up to establish Islamic organizations, undertaking all kinds of activities (see Rhazzali and Pallavicini, Part II). Hopefully the church and state, i.e., the Muslim communities and the state, will find a satisfactory way to cooperate that will in the end lead to the formal recognition of Islam in the country, and, consequently, to its further institutionalization and reasonable forms of interaction and integration.
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