



D+ReSoM

Diritto Religione Società Multiculturali
Law Religion Multicultural Societies

Право Религия Мультикультурные Общества

انون والدين في المجتمعات متعددة الثقافات
多元化社会中的法与宗教

LAW, RELIGION AND COVID-19 EMERGENCY

EDITED BY
PIERLUIGI CONSORTI

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DiReSoM Papers

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LAW, RELIGION AND COVID-19 EMERGENCY

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Pierluigi Consorti

DiReSoM (Diritto e Religione nelle Società Multiculturali – Law and Religion in Multicultural Societies) is a research group created in 2017 by Italian Scholars in Law and Religion.
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INDEX

PIERLUIGI CONSORTI, *Law, Religion and Covid-19 Emergency. Introduction* p. 7

LAW AND RELIGION

PIERLUIGI CONSORTI, *Religion and virus* p. 15

LUIGI MARIANO GUZZO, *Law and Religion during (and after) Covid-19 Emergency: the Law is Made for Man not Man for Law* p. 19

ANTONINO MANTINEO, *I have a dream: restarting, but going where?* p. 29

STATE LAW

MARIA LUISA LO GIACCO, *In Italy the Freedom of Worship is in Quarantine, too* p. 37

FABIO BALSAMO, *The loyal collaboration between State and religions at the testing bench of the Covid-19 pandemic. A perspective from Italy* p. 47

GABRIELE FATTORI, *Religious freedom at the time of coronavirus* p. 57

DOMENICO BILOTTI, *Punishment, virus and religions* p. 65

VALERIO D'ALÒ, *Covid-19: limitations to public worship in Italy, Spain and Poland* p. 73

ENRICA MARTINELLI, *The Greek Orthodox Church at the time of the SARS-CoV-2 epidemic* p. 81

ENRICA MARTINELLI, *Orthodox Easter Covid-19: Israel allows the opening of the Holy Sepulcher to receive the "Light of Resurrection"* p. 91

- GIUSEPPINA SCALA, *Freedom of the Profession versus the Health Emergency: The Physical and Spiritual Protection of the Lutheran Citizen* p. 97
- NIKOLA B. ŠARANOVIĆ, *Religion, law and Covid-19 emergency: a brief report from Montenegro* p. 105
- STEFANO PICCIAREDDA, *Religions, Africa and Covid-19* p. 109
- MASSIMO FAGGIOLI, *Pandemic and religious liberty in the USA: between privatization of the Church and neo-integralism* p. 119
- MUSTAFA YASAN, *The measures taken in the field of religion in turkey against the threat of pandemic Covid-19 virus* p. 125
- CATERINA GAGLIARDI, *Saudi Arabia's caution in times of health emergency* p. 129
- CHIARA LAPI, *The Saffron Wave Against Virus. The Hindu Nationalists and the Covid-19 Emergency* p. 137
- VASCO FRONZONI, *In Pakistan the mosques will remain open for Ramadhan but with restrictions* p. 141
- MASSIMO INTROVIGNE, *Lesson from the Shincheonji Case in South Korea: Monitoring Without Scapegoating* p. 145
- SIMONE BALDETTI, *First observations on law, religion and Covid19 in Japan. Between the "Confucian style" lockdown and religious response to pandemic* p. 151
- ANTONELLO DE OTO, *The Republic of San Marino and the practice of worship in the Covid-19 era: between history, common law and emergency decrees* p. 157
- PIERLUIGI CONSORTI, *Coronavirus emergency in the monastic autonomous republic of Mount Athos. Contagion without covid-19* p. 169
- MATTEO CARNÌ, *Vatican City State and Covid-19 emergency* p. 173

ANTONELLO DE OTO, *Andorra and Covid-19. Explanatory note* p. 187

RELIGIOUS LAW

LUIGI MARIANO GUZZO, *Hygiene of the Body and of the Spirit* p. 191

DANIELA TARANTINO, *“Non in pane solo vivet homo”. Catholics in front of Covid-19* p. 195

FRANCESCA OLIOSI, *“Mercy is what pleases me, not sacrifice”: liturgies, in pandemic, not rites* p. 209

DANIELA TARANTINO, *“I absolve you”. The priest medicus animarum at the time of the Covid-19* p. 213

STEFANO TESTA BAPPENHEIM, *Does the Covid-19 pandemic authorize the derogation from the canonical rule of absolution necessarily preceded by individual confession? (canon 961cic)* p. 221

MARIA D’ARIENZO, *Is the suspension of mass in public form legitimate?* p. 251

ENRICA MARTINELLI, *The Talmud teaches: “When pestilence is in the city, stay inside”. (Bavà Qammà 60)* p. 253

VASCO FRONZONI, *From social distance to Muslim solidarity proximity at the time of Covid-19* p. 261

POSITION PAPER

DIRESOM RESEARCH GROUP, *Proposal for a safe resumption of Religious Celebrations in Italy* p. 271

PROPOSAL FOR A SAFE RESUMPTION OF RELIGIOUS CELEBRATIONS IN ITALY*

edited by DiReSoM

In our capacity as professors and researchers of law and religion in state universities, and as founders of the "Diresom" research group - which during this pandemic activated the first international web portal on Law, Religion and Coronavirus (www.diresom.net) - we are please submitting to the Italian government and to the religious bodies a contribution to the debate concerning the possibility of allowing celebrations of religious worship, in compliance with the measures which are necessary to prevent the infection of the Sars-Cov-2 virus, namely the cause of the Covid-19 disease.

1. State of affairs. The emergency rules which have been enacted in Italy to contain the contagion throughout the national territory have limited various freedoms. Mainly, freedom of movement has been limited, as it has been restricted only to the hypotheses of "verified work demands or situations of necessity or movements for health reasons". In this emergency scenario, "religious and civil ceremonies, including funeral ceremonies" have also been suspended and the opening of places of worship has been

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conditioned to the "adoption of organizational measures aimed at avoiding gatherings of people, taking into account the size and the features of the spaces, so as to guarantee to visitors the possibility of respecting the distance between them of at least one meter ... »(Order of the Prime Minister 8 March 2020).

Unfortunately, this emergency regulation has resulted to be comprehensively unclear.

It left room for a discretionary reading, which has been only partially resolved by the publication of responses on institutional sites, as the latter have always been nevertheless very restrictive about personal mobility. For example, the opening of places of worship has not been considered as a sufficient condition to make a move from one's home legitimate, if the latter was not close to it (Faq 10 April 2020), even though entering the places of worship has been considered as acceptable - under generally established conditions - if the mobility had been determined by other legitimate reasons (Faq of the Ministry of Health of 15 March 2020; Note from the Central Directorate for Religious Affairs of the Ministry of the Interior, 27 March 2020).

On the occasion of the Easter celebrations, the participation in Catholic religious rites of a certain number of worshippers has been considered as acceptable, and the possibility to celebrate religious marriages has been clarified, provided only the presence of the celebrant [rectius: the religious minister, who is not the celebrant of the canonical marriage], of the married couple and of the witnesses, and, in any case, always in compliance with the prescribed sanitary rules and the necessary interpersonal distance.

Such rules, even if they have been specified in a ministerial note addressed to the Italian Episcopal Conference, must be

considered operative towards all the expressions of religious worship by virtue of the principle of secularism of the state.

The headlines of the last few days have broken the news that there have been contacts between the Italian Episcopal Conference and the Government authorities so as to agree about appropriate ways of exercising freedom of worship in the so-called "second phase", which has been announced for the period after 4 May 2020. However, the Order of the Prime Minister 26 April 2020 has fully preserved the general framework, only admitting the celebration of funerals, which should "preferably" be outdoors, with the participation of no more than 15 participants. The Italian Episcopal Conference has therefore issued an immediate note of dissent, complaining about the impairment of the exercise of freedom of worship" and, on the same date, the Prime Minister announced that "in the coming days a protocol will be studied which will allow the adherents to participate in liturgical celebrations as soon as possible in conditions of maximum security".

2. Challenging issues. From a technical-legal point of view, everyone should remember that in our legal system freedom of worship of everyone is protected under article 19 of the Constitution, therefore differentiated rules based on religious affiliation are not admissible. This means that the Protocol referred to by the Prime Minister's Office must provide measures addressed to all religious denominations, even those that have not entered into an agreement with the Italian state, pursuant to art. 8 paragraph 3 of the Constitution. We remind that the dialogue with religious denominations is constitutionally favored and represents a legal obligation, without however conferring on the religious

actors a regulatory competence that is mirrored in the affairs of the state.

The principle which underlies the legitimacy of the both past and future emergency rules, consists in the prevention of contagion, therefore, for this purpose, subordinating ordinary social activities to compliance with specific conditions of caution is legitimate, taking into account both the type of space where each needs to enter and the reason that led to leaving everyone's home. In the light of the general principles and guidelines contained in the Order of the Prime Minister April 26th 2020, which are globally aimed at introducing some partial relaxations of the previous restrictions on freedom of movement, in our opinion, considering mobility lawful for those who intend to go to a place of worship, also to participate in a religious celebration may be legitimate, as long as gatherings are prevented, social distancing is maintained and the necessary conditions of safety and sanitization of the premises are guaranteed. Limiting the stay in places of worship to the strictly necessary time will also be necessary.

3. Guidelines. We propose the adoption of the following guidelines in order to facilitate this operational possibility. Such guidelines make the collective celebration of any religion subject to the respect of the same measures of social distancing and hygienic-sanitary nature that can be established for other similar allowed forms of meeting

The places of worship may be open only if the conditions of sanitization and hygiene, which have been established for the entry into other closed but open to public spaces, are provided, and in particular:

a) possibility to maintain the measure of interpersonal distancing is guaranteed;

b) cleanliness and environmental hygiene are guaranteed at least twice a day and according to the opening hours. Surfaces must be cleaned with chlorine and alcohol based disinfectants;

c) adequate natural ventilation and air exchange is guaranteed;

d) availability and accessibility to disinfection systems of the hands is guaranteed;

e) the use of masks and disposable gloves is provided;

f) adequate access is available to information about the need to observe the mandatory sanitization measures and the prescribed social distancing at the entrance to the religious buildings.

2. The simultaneous entry into places of worship is allowed to a maximum number of people such as to allow compliance with the prescribed interpersonal distances:

a) the maximum number of people admitted to the entrance at the same time has to be considered in advance on the basis of the internal surface of the space (maximum three every forty square meters);

b) a warning has to be displayed at the entrance of the place of worship indicating the maximum number of simultaneously admissible people;

c) access is therefore properly organized under the responsibility of those who organize the worship meeting in order to limit the entrance to the maximum number of allowed people, and to prevent improper gatherings of people waiting outside the places of worship.

3. The celebration of worship in open spaces is encouraged, as in such spaces compliance with all the provisions adopted for

entry into closed spaces is not required, without prejudice to the need to ensure social distancing.

4. The religious authorities have to take appropriate measures of accommodation of religious ceremonies so as to respect the measures of prevention of contagion, taking care of the observance of interpersonal distancing and prohibiting any promiscuous use of containers for drinks and food of any type and for any purpose

5. Religious authorities commit to inform adequately their adherents about the obligation not to leave their houses, and therefore not to participate in the religious celebrations, whenever they are subjected to the quarantine measures or have been tested positive for the virus or whenever they exhibit symptoms of respiratory infection and (higher than 37.5° C) fever. This also applies to religious ministers.

6. Appropriate representative bodies must be locally set up, so as to allow prefectures and mayors to monitor, in collaboration with the local faith communities, both the prevention of contagion and the respect of individual freedom to participate in religious celebrations. Such bodies have to make use of the advice of experts with proper technical-scientific skills, so that any specific precautionary measures may be adopted and adapted taking into account the specific local context.

The present Position Paper has been drafted by DiReSoM and is the result of the collective reflection of:

Pierluigi Consorti (director) - University of Pisa

Simone Baldetti – University of Pisa

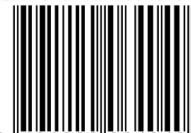
Fabio Balsamo – “Federico II” University of Naples

Rossella Bottoni – University of Trento

As scholars engaged in the study of the legal regulation of the religious phenomenon, we decided to create a web space to collect documents, comments and other useful materials related to the Covid-19 emergency, in order to assess the outcomes of the normative decisions made by state and religious authorities. So, on March 8th we have created www.diresom.net. By the end of April, we had already published more than 500 documents and comments related to this issue, and more than 20.000 unique visitors had surfed our website. Therefore, we decide to edit an open source book to share in a more orderly way the comments that we have already published online, thus giving the possibility to consult these first guidelines to all those who want to study or analyze the legal reaction, both state and religious, to this pandemic.

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