



Impact of the Covid-19 pandemic on religion in Italy

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1. General presentation

In the first half of 2020, and for approximately two years, the Italian Government imposed extraordinary social distancing measures. At the beginning, these restrictions regarded few towns of the Lombardy Region of Northwest. They were later expanded to the entire national territory. In order to reduce transmission through strict self-isolation, the Italian residents were indeed obliged to stay at home, unless allowed by the authorities – in written form – for reasons of work or health. Schools, museums, cinemas, theatres, and any other social, recreational, cultural structures had to stay closed, as well as most shops. Stores selling essentials, such as supermarkets or pharmacies, needed to ensure a distance of at least one-and-a-half metres between customers.

Like the problem at stake, these measures were without parallel in the history of the Republic, to such an extent that they limited some inviolable and unalienable human rights, including the right to freely profess and celebrate religious rites in the community. This, on the other hand, has led to a vigorous debate, which is even more animated when associated to the limitations imposed on the public liturgical life (masses, funerals, baptisms, marriages), especially those of the Catholic Church, the major religion in Italy.

2. Legal aspect

From a legal point of view, the starting point is that, unlike other European States, Italy does not have constitutional emergency dispositions. The 1948 Charter only contemplates the state of war, which shall be declared by the President of the Republic after being deliberated by the

Parliament that, in this matter, also has the authority to vest the necessary powers into the Government.¹ This may partly explain the 31 January 2020 decision through which the Council of Ministers, the collective body of the Italian government structure, declared a state of emergency.² It did so in the light of the initial spread of infectious disease at the global level and under the civil protection code (*codice della protezione civile*). In cases of natural calamities, this code allows the Government to adopt exceptional measures without parliamentary scrutiny.³

After few weeks, with the epidemic worsening, the Government took more restricting emergency decisions. It did so through the so-called lockdown measures, which were formalised with the decrees of President of the Council of Minister (PM's decrees or DPCMs).⁴ These decrees were authorised, sometimes *ex post*, by the decrees having force of law, better known as law decrees,⁵ as set out in Article 77 of the Constitution.⁶ It must be noted that article 2 of the law decree of 23 February 2020 states that "the competent authorities can enact further measures to contain and control the emergency, thereby preventing the diffusion of the Covid-19 epidemic disease". They can do that even "beyond the provisions provided by this law decree itself", meaning its content would be updated frequently, in any case no later than every thirty days.⁷ Since then, different law decrees have therefore authorised restricting measures, concretely defined and implemented by numerous subsequent DPCMs. The relation between these two types of legal sources was better delineated by the law decree of 26 March 2020. While repealing some dispositions of the previous one, this decree elevated the measures (that, in the meantime, had been introduced with DPCMs) to statutory law.⁸

¹ Article 78 of the Constitution.

² See "Dichiarazione dello stato di emergenza in conseguenza del rischio sanitario connesso all'insorgenza di patologie derivanti da agenti virali trasmissibili," Official Gazette of the Italian Republic (OGIR) 26 (1 February 2020).

³ See the 2018 Italian legislative decree, no.1.

⁴ In Italian *Decreti del Presidente del Consiglio dei Ministri* (DPCM).

⁵ In Italian *decreti-leggi*.

⁶ See Law-decree no. 6, "Misure urgenti in materia di contenimento e gestione dell'emergenza epidemiologica da COVID-19," OGIR 45 (23 February 2020). On procedural grounds, since February 23, 2020, law decrees have thus replaced the civil protection code for regulating the emergency situation caused by the SARS-CoV-2 infectious disease. From a substantive point of view, since then the lockdown measures have been established by combining the effects of both DPCMs and law decrees.

⁷ See Article 1 of the 25 March 2020 law-decree, no. 19, "Misure urgenti per fronteggiare l'emergenza epidemiologica da COVID-19," (25 March 2020).

⁸ *Ibid.*

Some Church leaders asked the regional authorities to let the faithful attend mass. With regard to specific legal aspects, other opponents have referred to the Italian Constitution, which recognises that the Catholic Church has full freedom and autonomy in carrying out the ministry, which in turn is given proper social and public expression in the celebration of the holy mass and the administration of the sacraments. No state authority may interfere in this, they argued, especially with unilateral decisions that, among other things, are in contrast with article 7 of the Italian Constitution.⁹ On 26 April 2020 the President of the Council of Ministers (PCM), Giuseppe Conte, announced the Government's cautious plans for a slow-placed end to Italy's long coronavirus lockdown. He stated that restricting measures, which had been put in place seven weeks before to curb the disease, would be eased from May 4 when parks, factories and construction sites would reopen. So far as places of worship are concerned, the conditions for their opening continued to be subject to the adoption of precautionary measures, such as the interpersonal safety distance of at least one metre. Civil and religious ceremonies remained suspended at least until May 18, 2020.¹⁰ The Italian Bishops' Conference (CEI) responded shortly after the PM's announcement, addressing the policies that would continue to restrict the Church's ability to carry out its pastoral activity. The bishops made it clear that they had been in constant negotiations with the State's authorities. As a result, CEI had proposed guidelines and protocols "in full compliance with all health regulations". Nonetheless, they argued, the Government, "arbitrarily excludes the possibility of celebrating mass with the people".

Indeed, Italy's restricting measures for the containment of Covid-19 outbreak disease have generated intense debate among Catholics, religious leaders, and legal experts. The majority of them can be broadly classified into two main categories: those who see religious

⁹ A conservative example of that is given by the "Appeal for the Church and the world to Catholics and all people of good will" (available at <https://veritasliberabitvos.info/appeal/>, last accessed 9 May 2020), where it is stated that "under the pretext of the Covid-19 epidemic, the inalienable rights of citizens have in many cases been violated and their fundamental freedoms, including the exercise of freedom of worship, expression and movement, have been disproportionately and unjustifiably restricted. Public health must not and cannot become an alibi for infringing on the rights of millions of people around the world, let alone for depriving the civil authority of its duty to act wisely for the common good. The imposition of these illiberal measures is a disturbing prelude to the realisation of a World Government beyond all control".

¹⁰ See DPCM, "Ulteriori disposizioni attuative del decreto-legge 23 febbraio 2020, n. 6, recante misure urgenti in materia di contenimento e gestione dell'emergenza epidemiologica da COVID-19, applicabili sull'intero territorio nazionale," (27 Aprile 2020).

celebrations as the Church's exclusive competence especially essential at a time when an invisible and pervasive menace strikes not just bodies but also souls; and those who, while stressing the importance of the right to freely profess religious belief in public, underscore that in time of Covid-19 emergency this right should be interpreted in the light of, and put in balance with, other constitutional prerogatives, beginning from the duty of the State to safeguard health in its entire individual and collective dimension. In the end, this tells us how, on the one hand, the issue involves practical questions but, on the other hand, hints at an underlying tension around the system of relationship State-Church(es) that the medical emergency is revamping.

It is widely acknowledged that not all rights are unlimited. Some rights, however, seem to be immune from limitations or suspension, even in emergencies. That is the case of freedoms from torture, slavery, and inhuman or degrading treatment. These rights are in fact deemed to be of vital importance not only for individuals, but also for the existence of a constitutional democracy. It is not by chance that in a way or another all these rights are related with the duty to health protection which, in turn, is strictly linked to the *ius existentiae*, meaning the essential precondition to exercise other rights and one of the most important components of the so-called *salus rei publicae* (public safety). The safeguard of human health, however, does not imply the right to abuse of public power, especially when related to religious freedom which, for this very reason, cannot be limited disproportionately in the name of health emergencies.

It is true that unlike other rights religious freedom is a fundamental right, even during the state of emergency. But it is also true that this right is not absolute. It is due to be balanced against other fundamental rules and principles, including those related to health protection. The fact is that the balancing test does not always produce a win-win solution. It happens many times that one right should prevail, depending on both the existing situation and the systematic interpretation of rules and principles. This means that the scope and significance of a legal provision is determined in relation of concrete circumstances and within its constitutional context.

We may thus infer that freedom of religion can properly be subject to limitations during a state of emergency caused by a serious epidemic disease. This is because in cases like this the balance of rights tilts in favour of health protection. However, it does not mean that religious

freedom can be limited disproportionately, or in a way that discriminates against believers and non-believers or a certain religion or belief. On the other hand, though, the mere opportunity for abuse of power by a government is not enough to prevent the implementation of emergency measures in response to real-life dangers.¹¹

Hence, during medical emergencies governments must continue to consider the right to religious freedom as fundamental, thereby limiting it when strictly necessary to protect the human health. In practice, restrictions on religious freedom are justified when they have a legal basis, are essential, respectful of human dignity, based on scientific evidence and neither arbitrary nor discriminatory in application. These restrictions must also be of limited duration, subject to parliamentary scrutiny and judicial review, proportionate to achieve the objective of preventing or containing threats to both the human life and public safety.

Religious gatherings are important opportunities for people to practise and share their right to believe, but they are also sites for transmission of Covid-19, which makes no distinction between believers and non-believers: the coronavirus endangers not only participants in these gatherings but everyone with whom they interact. Under this aspect, it is important to remark that the Italian Constitution recognises all religious denominations as equally free before the law.¹² It also states that all individuals are entitled to freely profess their religious belief in any form, individually or with others.¹³ In addition, the 1948 Charter clearly affirms that the religious character or the religious aim of some social groups cannot justify special legal limitations for their foundation, their status or any of their activities.¹⁴ All these legal provisions underscore the

¹¹ See the 7 April 2020 decision of Germany's Federal Constitutional Court Bundesverfassungsgericht, dem Verfahren über die Verfassungsbeschwerde, 1 BvR 755/20, which refers to the applications for preliminary injunctions in relation to the Bavarian emergency measures due to the Covid-19 pandemic disease. In this case the Courts stated that "the challenged emergency measures amount to a considerable restriction of fundamental rights of persons located in Bavaria ... all of these restrictions involving social, cultural and economic consequences that are considerable and presumably irreversible in parts would have been ordered unlawfully, and any punishment of potential violations against them would be unlawful as well. Yet if, by contrast, the preliminary injunction were granted, but the constitutional complaint were unsuccessful, presumably many people would act in a way that the challenged provisions aim to prevent, even though the restriction of such conduct would be compatible with the Constitution. Consequently, based on the information available to date, the danger of being infected with the virus, of many people falling ill, of health care institutions being overwhelmed with the treatment of serious cases and, in the worst case, the danger of people dying would increase considerably".

¹² Article 8.1 Italian Constitution.

¹³ Article 19 Italian Constitution.

¹⁴ Article 20 Italian Constitution.

fundamental nature of religious freedom. This nature, though, is also recognised in relation to the right to health, as openly stated in article 32 of the Constitution.¹⁵

In the light of these provisions, those who have criticised the Italian Government's emergency Covid-19 measures have also referred to the content of the 1984 State-Church agreement, which states that "the Republic shall recognise the full freedom of the Church to develop its pastoral, educational, and charitable mission, of evangelisation and sanctification; in particular, the Church shall be assured the freedom of organisation, of public exercise of worship, of exercise of its magisterium and spiritual ministry as well as of exercise of jurisdiction in ecclesiastical matters".¹⁶ Moreover, they say that, according to article 14 of the 1984 Agreement, when there is a problem of interpretation, the provisions of this Agreement are subject to "the search for an amicable settlement through a joint Commission, appointed by the two (the State and the Holy See) parties".¹⁷

The problem with this argument is that article 2 of the 1984 agreement does not actually relate to freedom of worship for Catholics as persons. It only pertains to the public exercise of worship for the Catholic Church as a religious institution. In other terms, it deals with the so-called *libertas Ecclesiae* and not with *libertas fidelium*, which the Government's emergency decrees have never called into question. So much so, that since March 2020 places of worship have been open to the public and priests have had the possibility to celebrate rites, even if not *coram populo* (in the presence of the people).

To this respect, it has also been affirmed that the Government's measures due to the Covid-19 emergency infringed the 1969 Vienna Convention and the relative procedure. Those measures were unilaterally imposed without the collaboration of the Holy See, as requested by the 1984 Agreement, which norms were then infringed too. And, since the Agreement is assimilable to international treaties, this also resulted in the infringement of the Vienna Convention. The fact is that the domestic procedure of article 14 of the 1985 Agreement derogates and excludes the procedure of Vienna Convention. This is also because the Vienna procedure is in contrast with the canonical principle of the *Prima sedes a nemine iudicatur* (the

¹⁵ In the Italian Constitution only in this article the word 'right' is associated with the word 'fundamental'.

¹⁶ Article 2 of the 1984 agreement (translation mine).

¹⁷ Article 14 of the 1984 agreement (translation mine).

First Holy See is judged by none). Thus, in the light of the principle of *Kompetenz-Kompetenz* (under which the State holds the ultimate competence), when the “amicable settlement” of article 14 of the 1984 Agreement is not possible, the interpretation of the State will prevail. And, in any case, the procedure of the Vienna Convention clearly states that “a party which... invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty must notify the other parties of its claim”;¹⁸ this notification “must be made in writing”.¹⁹ In relation to the Government’s measures due to the Covid-19 emergency, the Holy See has never done that. So, from a legal point of view, the issue of applicability of the Vienna Convention does not arise here.

Besides, as the Constitutional Court stated in the 2018 *ILVA* case, the prompt removal of any factors that constitute a hazard for inviolable rights set forth in article 32 in conjunctions with articles 2 and 3 of the Italian Constitution require the State to pay the utmost attention to the protection of human health and physical integrity of individuals.²⁰ In other words, it requires public authorities to defend the *salus rei publicae* which, in the health emergencies in general and in the case of SARS-CoV-2 pandemic disease in particular, may assume the characteristics of *suprema lex*; in cases like this, the old formula *salus rei publicae suprema lex esto* seems appropriate.²¹

Hence, it is proved that the Italian government’s interventions for the containment of the Covid-19 coronavirus have not been exempt from mistakes; the use of the administrative acts of DPCMs for those interventions is a prime example of that. Another example is given by the fact that many times the content of the DPCMs were not clear; for this, they were frequently accompanied by nonlegal binding sources like the Home Office Minister’s FAQs and *circolari*

¹⁸ Article 65 of the Vienna Convention.

¹⁹ Article 67 of the Vienna Convention.

²⁰ *Corte Costituzionale*, sent. 23 March 2018, no. 58. In this vein see the Court of Justice of the European Union (CJEU), *Swedish Match AB v. Secretary of State for Health*, Case C-151/17 (preliminary ruling), 22 November 2018, where it is stated that “the EU legislature must take account of the precautionary principle, according to which, where there is uncertainty as to the existence or extent of risks to human health, protective measures may be taken without having to wait until the reality and seriousness of those risks become fully apparent. Where it proves to be impossible to determine with certainty the existence or extent of the alleged risk because the results of studies conducted are inconclusive, but the likelihood of real harm to public health persists should the risk materialize, the precautionary principle justifies the adoption of restrictive measures”.

²¹ On this principle see Martin Loughlin, *The Idea of Public Law* (Oxford: Oxford university Press, 2004), 154.

(internal memos). Yet, it is also evident that the restrictions on religious rights were based on public health concerns and not used to quash dissent or target major religious groups, minority denominations, or individuals. These restrictions were taken in the light of legal interests, principles and rules recognised and protected under the Constitution. The balancing operation was complied with the canons of proportionality, in such a manner that the right to freely profess religious belief and celebrate rites in public was relatively limited, but not eliminated.

A similar position was supported by Professor Giuseppe dalla Torre who, by interpreting the canons 213 and 843.1 of the *Codex Iuris Canonici*, affirms that “the right to receive sacraments – and therefore the obligation for priests to administer them – is subject to personal and objective circumstances of both time and place.” In this sense, “We must also take into account the individual and collective right of health care, which is now under attack by the outbreak of the coronavirus-associated severe acute respiratory syndrome or Covid-19”. Even the Catholic doctrine “considers that in certain circumstances the civil authority can legitimately limit the public exercise of freedom of religion”.²²

On the contrary, a group of conservative Catholics suggests that “under the pretext of the Covid-19 epidemic”, the inalienable rights of citizens have been violated and their fundamental freedoms, including the exercise of freedom of worship, expression and movement, have been disproportionately and unjustifiably restricted: public health must not and cannot become an alibi for infringing on the rights of millions of people, let alone for depriving the civil authority of its duty to act wisely for the common good. In other words, they consider those measures as illiberal attack on the right to religious freedom and a “disturbing prelude to the realisation of a government beyond all control”.

3. Sociological and political aspects

In early May 2020, Spain had the highest number of the Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2 or Covid-19) cases in Europe. It was followed by Italy, the UK, France, and Germany. However, the scrutiny of country-by-country data on confirmed affected

²² Giuseppe dalla Torre, “Coronavirus. Gli ordini dati dallo Stato e gli ordini interni della Chiesa,” *Avvenire* (22 March 2020) (translation mine).

individuals discloses a different story: Luxembourg had the highest incidence of SARS-CoV-2 cases among its population. And if we examine the number of deaths caused by the pandemic, what is characterised as the Covid-19's case fatality rate (CFR), we should report another result: Germany, for example, was among the most affected nations in the world, yet its CFR was much lower than that of many States, including European ones.

Given the different interacting variables involved (i.e. the equipment of a national healthcare system, the age of the population, the number of people living in families, the prevalence of pre-existing medical conditions) it is tough to make sweeping generalisations about SARS-CoV-2 disease outbreaks. That is particularly true when taking into account Italy where in 2020-2022 the confirmed cases, the incidence rate, the hospitalisation rate and the fatality rate have varied dramatically from elders to youth, from north to south, from region to region, and even from a town to another. One thing is clear: the virus has spread quickly, crossed the peninsula and put the country in an unprecedented emergency; not only in terms of the outbreak itself, but also in terms of how the State has responded to it.

In this manner, since March 2020 the lockdown provisions adopted for the so-called red zones, Italy's worst affected Covid-19 areas, were extended to the country as a whole. These measures included closure of some public spaces; limitation or suspension of trade, transport, schools, universities; quarantine for persons who had had contact with confirmed infected people; prohibition of meetings, including those related to religious liturgies such as masses, funerals, baptisms and marriages.

In general, the limitation of personal mobility implied obligation to stay home unless one had justified reason to go out for essential services such as medical care, food, and work; these exceptions had to be explicitly mentioned on a self-declaration form available at the Ministry of Interior's website.²³ In particular, on 8 March 2020 PM's decree suspended on the entire national territory civil and religious ceremonies, including funerals and holy masses.²⁴ At this stage of the

²³ See *Modello di autodichiarazione ai sensi degli artt. 46 e 47 D.P.R. n. 445/2000*, available at https://www.interno.gov.it/sites/default/files/allegati/nuovo_modello_autodichiarazione_editabile_maggio_2020.pdf (last accessed 17 May 2020).

²⁴ DPCM, "Ulteriori disposizioni attuative del decreto-legge 23 febbraio 2020, n. 6, recante misure urgenti in materia di contenimento e gestione dell'emergenza epidemiologica da COVID-19" (8 March 2020).

Covid-19 emergency, places of worship were open to the public and individuals were allowed to enter, provided that they had to practise social distancing and keep at least one metre away from other people. In fact, going out to enter places of worship in order, for example, to pray did not qualify as an essential or primary need.

Some commentators reacted to the Government decisions by saying that since the beginning of the crisis public religious services should have been permitted along with other activities such as food shopping. At a deeper level, religion is the ultimate source of meaning, they said. Moreover, in a traditionally Catholic country, like Italy, churches cannot be treated as providers of unnecessary services such as movie theatres and concert halls, they also added. From their part, Catholic hierarchies readily complied with the Government's restricting measures; too readily, according to some commentators. "The limitations of public worship have been welcomed by the Catholic Church with some bureaucratic indolence," wrote Alberto Melloni in a diffused Italian newspaper²⁵: contending that the PM's decree is highly restrictive, the Episcopal Conference of Italy (CEI) has made a weak gesture of protest without going no further, he said. Critics of the measures also argued that the faith as well as the clergy's help aided Italians through past epidemics: take the example of Lombardy's patron saint Charles Borromeo – they pointed out – who is revered in part for his actions during a 1576-1578 plague.

CEI also reminded the Italian Government and its Scientific Committee advisory board "of the duty to distinguish between the State responsibility to give precise indications related to health matters and the Church's responsibility to organise the life of the Christian community; which implies that the Church will respect the measures laid down, but in the fullness of its own autonomy". Pope Francis did not completely agree with that. Two days later, during the morning Mass at *Casa Santa Marta*, a Vatican hostel, he said that "at a time when people are starting to get instructions to emerge from quarantine let us pray to the Lord that he may give his people, to all of us, the grace of prudence and obedience to the rules so that the pandemic does not return".²⁶

²⁵ Alberto Melloni, "Una comunità che prega non è una folla. La sospensione delle messe nelle zone rosse ha fatto cominciare la quaresima senza la liturgia domenicale, *La Repubblica* (1 March 2020).

²⁶ Translation mine.

However, these limitations have not prevented the Church from collaborating with the State, as clearly demonstrated by the Government's coronavirus "phase 2" lockdown measures. The attention focuses on the "Protocol concerning the resumption of public Masses", which was signed on 7 May 2020 by Mr. Giuseppe Conte, the Ministry of Interior Lucia Lamorgese and the CEI's President Cardinal Gualtiero Bassetti. The document states that Masses for the public would resume on May 18 but under strict conditions. Its clauses say that religious ministers determine the maximum number of people who can fit in a church while staying at least one metre apart. If there is demand, additional masses would be held, rather than allowing more people into the church for one service. The faithful would have to wear masks in church. Priests celebrate most of the Mass without masks but they will have to wear one, as well as gloves, when they distribute the Eucharist. The protocol also states that choirs are banned, holy water fonts remain dry, and the traditional exchange of a sign of peace, usually in the form of a handshake, is eliminated. The collection, in which a basket is passed around for offerings of money, is replaced by containers where the faithful can make contributions. All rooms and objects used will be sanitised at the end of each ceremony. It is worth pointing out that in this occasion Cardinal Bassetti reiterated the Church's commitment to overcoming the current Covid-19 crisis by saying that "the Protocol is the result of profound collaboration and synergy between the government and the Italian Bishops' Conference, where everyone has played their part responsibly".

It should also be said that in Italy the Covid-19 emergency has confirmed an increasing prevalence of the inner circle of monocratic leadership. It has laid bare the increasing weakness of the collegiate powers, marginalising the institutions of representative democracy in favour of executive powers. This is not only valid for the central institutions but also for both the regional and local levels. Concerning the central powers, what is a matter of concern is not the sequence of DPCMs and law decrees for introducing Italy's lockdown legislation *per se*. What is at stake here is the Parliament's ephemeral participation in the lawmaking process. During the Covid-19 emergency, instead of increasing its control on the measures adopted by the Government (if not by the President of the Council of Ministers), the Italian Parliament has in fact barely functioned. Especially at the early stage of the outbreak, the response to the SARS-CoV-2 threat was to shut

down the Parliament, saving its members for gathering. So, differently from other essential services (hospitals, pharmacies, food stores, newsstands, and even tobacconists), an essential component of democracy was literally locked down. So, by applying to deputies and senators the Government's social distancing measures, the Parliament admitted itself that its role is not indispensable.

The same can be said for the regional and local levels. Here political leaders were aware that when the health emergency would be over, the choices they made could represent a springboard for their career or, on the opposite, be the beginning of its end. This explains the growing media exposure of numerous presidents of the Italian Regions (PIR) and the mayors of many towns in the Country. Suffice recall the PIR and mayors' viral declarations on the web,²⁷ while the regional and local councils were quite close to being irrelevant. This is also a result of the 2001 reform of Title V of Italian Constitution which, among other things, assigned the organisation of health services to the regions: the Covid-19 emergency crisis has thus confirmed that the 2001 constitutional revision was the outcome of an incoherent institutional design.²⁸

At the same time, national and local politicians have been seeking to add credibility to their decisions through presentation of supporting scientific advice. However, the difficulty with the Covid-19 crisis is that scientists do not always have concrete answers and can feel pressured by politicians to go beyond what is actually known. As a result, while the oppositions are weaponising every bit of information for electoral gain, the accountability of the national and regional executive powers as well as the systems of checks and balances is mainly provided by the health experts. The most important example of that is given by the widespread media coverage of the Government's Scientific Committees, including Italy's Superior Institute of Health (*Istituto Superiore di Sanità* or ISS). Another implication of this is that the Government's emergency decisions were criticised, but not because they ignored the

²⁷ See for example *Il Corriere della Sera*, "Coronavirus, la rabbia dei sindaci contro chi esce di casa: i video virali sui social," <https://video.corriere.it/cronaca/coronavirus-rabbia-sindaci-contro-chi-esce-casa-video-virali-social/f6f4da9c-6db6-11ea-9b88-27b94f5268fe> (last accessed 20 May 2020).

²⁸ Roberto Bin, "Le riforme costituzionali e i Consigli regionali," *Le istituzioni del federalismo* 3-4 (2001); Silvio Gambino, "Una nuova riforma costituzionale per il Titolo V: soluzione intricata e compromesso difficile fra riassetto istituzionale ed esigenze in conflitto," *Osservatorio costituzionale* (2015): 1-14.

evidence. Rather, some censured those measures because there was not enough evidence to show they were necessary. From here stemmed the inappropriate, if not unfair, political use of scientific models.

These models are estimates not oracles. Scientists can tell politicians the conditions under which their simulations are likely to work, but they are not responsible for creating those conditions. Thus, blaming epidemiologists for the consequences of the Government's Covid-19 strategy is like blaming climate experts for not preventing the climate crisis. Scientists, in other words, can provide evidence, but acting on that evidence requires a serious political will.

This again provides evidence for the fact that the emergency enormously complicates the difficulty of balancing some rights (to travel in any part of the country, to private economic enterprise, to assemble peaceably, for example) against the protection of human health. That is even more problematic when taking into account the restricting measures imposed on religious freedom in some socio-cultural contexts. The case of Italy during the SARS-CoV-2 global emergency is an illustrative example of that.

4. Essential references

Azzariti Gaetano, "Il diritto costituzionale d'eccezione," *Costituzionalismo.it* 1 (2020) <https://www.costituzionalismo.it/wp-content/uploads/0.-Fasc.1-2020.-Azzariti.pdf> (last accessed 20 May 2020).

Botti Federica, "bagatelle per una pandemia," *Rivista telematica (www.statoecliese.it)* 10 (2020): 1-21.

Carlo Viganò Archbishop, a former apostolic nuncio to the United States, includes the signatures of other cardinals. It is available at <https://veritasliberabitvos.info/appeal/> (last accessed 17 May 2020).

Colaianni Nicola, "La libertà di culto al tempo del coronavirus," *Rivista telematica (www.statoecliese.it)* 7 (2020): 28; Gatta Gian Luigi, "Un rinnovato assetto del diritto dell'emergenza COVID-19, più aderente ai principi costituzionali, e un nuovo approccio al problema sanzionatorio: luci ed ombre nel d.l. 25 marzo 2020, n. 19," *Sistemapenale* (26 March 2020).

Consorti Pierluigi, "Religion and virus", in Pierluigi Consorti (ed.), *Law, Religion and Covid-19 Emergency* (Pisa: DiReSoM 2020), 15-19.

Episcopal Conference of Italy (CEI), "Coronavirus: comunicato della Presidenza CEI," Chiesa Cattolica Italiana (24 February 2020).

Episcopal Conference of Italy (CEI), "Decreto 'coronavirus': la posizione della CEI, Chiesa Cattolica Italiana (8 March 2020). It should be noted that from a canonical point of view the CEI's notes cannot be considered general decree and instructions as established can. 29 of the Code of canon. Those notes must be considered merely indicative provisions that, as such, are due to be specified by acts of the individual local ecclesiastical authorities.

Episcopal Conference of Italy (CEI), "DPCM, la posizione della CEI, 26 April 2020," Chiesa cattolica Italiana (9 May 2020).

Episcopal Conference of Italy (CEI), "Messe con il popolo: condivise le linee di un accordo," Chiesa Cattolica Italiana (2 May 2020).

Ferrari Alessandro, "Covid-19 e libertà religiosa," *Settimanana news* (6 April 2020).

Fuccillo Antonio, Miriam Abu Salem and Ludovica Decimo, "Fede interdetta? L'esercizio della libertà religiosa collettiva durante l'emergenza COVID-19: attualità e prospettive," *CALUMET – intercultural law and humanities review* 96 (2020).

Licastro Angelo, "Il *lockdown* della libertà di culto pubblico al tempo della pandemia", *Consulta Online I* (2020): 239.

Lillo Pasquale, "Note preliminari sui protocolli concordatari," *Rivista telematica* (www.statoechiese.it) (2013): 1-24.

Pacillo Vincenzo, "La sospensione del diritto di libertà religiosa nel tempo della pandemia," *Olii.it* (16 March 2020). Also Monetsano Stefano, "L'esercizio della libertà di culto ai tempi del Coronavirus," *Olii.it* (20 March 2020).

The Italian Government, "Protocollo circa la ripresa delle celebrazioni con il popolo", available at http://www.governo.it/sites/new.governo.it/files/Protocollo_CEI_GOVERNO_20200507.PDF (last accessed 11 May 2020).