

LEGAL RESTRICTIONS DUE TO CORONAVIRUS AND RIGHT TO RELIGIOUS FREEDOM

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Abstract: *The current pandemic has created new scenarios and problems regarding religious freedom. To combat the spread of the coronavirus, governments have ordered social distance and total closure of numerous activities including the celebration of sacred rites without consulting religious authorities. Religions have accepted the restrictions with a sense of responsibility, but the sacrifice of religious freedom for the faithful has been great. In addition, the effects of the pandemic together with the negative effects of globalization will continue over time, generating economic and social damage. In addition to prayer, religions have invited the faithful to a social commitment to reduce the critical issues of the crisis and specially to combat poverty. It is therefore necessary to analyze some topics: critical issues relating to the limitation of the right to religious freedom; what problems arise in the relations between powers (civil and religious); what problems arise in relations between state and religions; how the constitutional rights of the faithful and citizens are protected; what are the legal problems internal to the different religions, considering that the judgment on the validity of online rites is different; what is the role of religions in the face of the economic crisis. For the first time since the beginning of the human rights era, there has been a serious conflict between human rights, especially for the greater protection given to the right to health. The right to religious freedom also suffered, but it must be considered that the protection of the right to religious freedom also contributes to the recovery of a „good” economy, which can counteract the negative effects of the pandemic and globalization. We must build a personalist humanism, which the alliance between religions can promote. A humanism that respects the rights and dignity of man, against the logic of profit, and that rewrites the ethical rules of the economy. Looking at the post-pandemic, religions can be the soul of the ethical and moral rules that must guide the „good economy” in society to overcome social and economic differences.*

Keywords: *Religious freedom, Economic crisis, Religion’s role, New humanism.*

1. EMERGING CULTURAL TREND: THE CONTRAST BETWEEN FUNDAMENTAL RIGHTS IS POSSIBLE

The coronavirus pandemic is the first true global pandemic of the third millennium and has designed a new scenario, which has shocked not only the world of health, but also social relations, even within stressed family relationships², the rules of coexistence, economic processes, rights and freedoms fundamentals, places of politics, rules and roles of religions³. This scenario has a cost, which is not only economic. The social measures to combat the spread of the infection have been very severe and can be summarized as follows: strict observance of personal hygiene rules, social distancing, more or less general lockdown. For the first time since the era of human rights began (after the end of the Second World War and with the birth of the United

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² Very interesting the report by Harris, Rachel L & Tarchak. Lisa (March 30, 2020), "It's Starting to Feel Like a Pressure Cooker in This House. Readers tell us what it's like to almost never be home alone", *The New York Time*, <https://www.nytimes.com/2020/03/30/opinion/coronavirus-isolation-relationships.html>

³ There are numerous essays that analyze damage from coronaviruses other than health. As for the damage to the economy, compare Internet sites Mastrodonato, L. (2020), "La prima vittima del coronavirus è l'economia italiana", *The Vision*, <https://thevision.com/attualita/danni-economia-coronavirus/>

Nations) there has been a serious conflict between the same rights: for example we observe the contrast between the right to work and right to health, between rights of freedom and right to health, between economic rights and health, between right to life and euthanasia. It is a cultural trend present in contemporary societies that needs to be carefully considered, especially because there is still no answer to this problem⁴. This trend taken to the extreme can stifle the rights of freedom and religious freedom. In fact, the protection of the right to health has been taken as a pretext for compressing democratic rights by strengthening the power of individual political leaders, as has happened in Hungary, the USA, Turkey, Brazil⁵.

2. THE GLOBALIZED PANDEMIC IMPACTS ON THE ECONOMY AND HUMAN RIGHTS

The coronavirus pandemic has a singular characteristic, since at the same historical moment it occurs simultaneously with globalization⁶. These planetary phenomena produce different effects, but at the moment they are also converging and affect economy and human rights. The pandemic also used globalization and the speeding up of relationships, making the spread of contagion faster worldwide. The convergence between the negative effects of the two phenomena risks compromising the social and economic progress of the affected countries, practically all over the world. The data of many researches have already said this since the end of 2019 (for example the forecasts of the International Monetary Fund-IMF, and of the European Commission, which predicts a fall in recession to -7.7%, and OECD analyzes). The negative effects of the pandemic are added to the negative effects of globalization, which are especially exploitation, environmental degradation, the increase in social inequalities and poverty, the loss of local identities, the impoverishment of local economies, the decrease in privacy and personal rights. From an economic point of view, this form of pandemic contains the risk of generating a multiplication of inequalities (social, economic and human). The contrast between different conceptions of economics emerges more clearly, substantially oriented to give greater strength to the private system or to the public system, rediscovering the role of the State. Furthermore, it is possible to distinguish between a ‚good’ finance and “good economy” (necessary to finance development, Keynes) and a ‚bad’ finance and “bad economy” (which can favor speculation, higher rents for few people, individual rather than social well-being). Bad finance often does not see the crisis coming, because it uses for its speculations „theories and models that hypothesize that crises are not possible”⁷. We can recall these aspects, because the choice between the different conceptions also depends on ethical and moral rules, based on religions.

Another negative effect of the convergence between pandemic and globalization is the compression of rights, among which are the rights of personal freedom, the right of free movement, freedom of assembly, the right of religious freedom, the right to work, economic rights, political participation rights.

⁴ According Waldron, Jeremy (1989), “Rights in Conflict”, *Ethics*, Vol. 99, No. 3, pp. 503-519, Published by: The University of Chicago Press, <https://www.jstor.org/stable/2380863>, Page Count: 17

⁵ Paredes, N. (2020 4 april), Coronavirus en Hungría | „La primera democracia europea que cae a causa del coronavirus: cómo la crisis del covid-19 ha puesto en juego el sistema democrático húngaro”, *BBC News Mundo*, <https://www.bbc.com/mundo/noticias-internacional-52151321>; Editorial Board (2020 april 25), “L’autoritarismo al tempo del Covid”, *Il Foglio*.

⁶ According Cardini, F.(2020, avril 7), Pandemia figlia della globalizzazione”, *AdnKronos*, <https://www.adnkronos.com/cultura/2020/04/07> (“Globalization has speeded up news but also any other type of communication”)

⁷ Turner, A. (2020), *Between Debt and the Devil Money, Credit, and Fixing Global Finance*, Princeton University Press.

In practice, the compression of rights took place temporarily during the lockdown and social distancing. Paradoxically, health benefits have come through the compression of other human rights. For example: the quarantine obligation and the ban on leaving one's home constitute a limitation of personal freedom: the creation of „red areas”, from which it is not allowed to leave, restricts the freedom of movement and circulation; the ban on gatherings severely limits the freedom of the meeting; mandatory closure of economic activities and businesses is a limitation on the right to work; the ban on attending places of worship constitutes a limitation on the exercise of the right to religious freedom.

3. PARTICULARLY THE ITALIAN WAY AND RESTRICTIONS ON THE RIGHT TO RELIGIOUS FREEDOM

In Italy lockdown and distancing have resulted in the closure of religious places of worship for the faithful, that is, a sacrifice of religious freedom. Religious organizations (Catholic Church, Protestant communities, Jews, Muslims, Buddhists and all other religions) have accepted the closing orders with a sense of responsibility. However, they were not formally consulted, although there were only talks between government representatives with some religious leaders. This situation seems to contrast with the system of relations between the state and religious organizations. In Italy there have been 12 agreements between the state and religious denominations since 1984, when the first agreements were signed with the Catholic Church and the Waldensian confession.

These Agreements have inaugurated a new season of dialogue, respect and collaboration, applying the principles contained in the articles of the Italian constitution, „defining the boundaries of mutual competences” to establish peaceful relationships⁸. In fact, especially for the Catholic Church, article 1 of the new Agreement indicates cooperation for the good of the country and the promotion of man as a central element. In other words, confirming the autonomy and mutual independence, the State and the Church have undertaken to achieve a wide form of collaboration towards shared objectives, also starting from different perspectives and purposes. The particular formula used in the Agreement allows us to argue that the collaboration concerns not only the points explicitly indicated, but every situation of need that compromises the human person and the good of the country, such as the current one, since „the complexity of the relationships between State and Church also manifests itself beyond the scope of the Agreement”⁹.

So, in this circumstance both the State and the Church underestimated the strength of the Agreement, perhaps because of the urgency of the moment. The right to religious freedom and concrete practices must be guaranteed not only by the State, but also by the Church, since the right is a good that belongs to the person and not to the institutions. The other religious denominations, both those that have signed an Agreement with the state and those that have not, have reacted with implicit acts of adherence to the restrictive provision of the state of closure of places of worship. The Coronavirus emergency also affected religions, requiring the faithful, priests and various spiritual guides to reorganize themselves to continue praying remotely, still feeling like a community. However, the theological problems that have arisen with reference to the value of some community prayers cannot be ignored. For some religions, such as the Islamic one, a serious problem concerns the validity of prayer via internet.

⁸ Dammacco, G. (2010), “La politica delle religioni: la libertà religiosa tra persona e stato”, in More Authors, *Oltre i confini. Religiose e società nell'Europa contemporanea*, (pp. 231-262), Bari (Italy), Cacucci Editore.

⁹ Santoro, R. (2010), “La politica dei concordati e il dialogo tra chiesa e società”, in More Authors, *Oltre i confini. Religiose e società nell'Europa contemporanea*, (pp. 155-176), Bari (Italy), Cacucci Editore.

4. THE NEED TO OVERCOME THE INJURIOUS EFFECTS OF CORONAVIRUS ON THE ECONOMY WITH A NEW HUMANISM;

Unfortunately, coronavirus has also caused damage to the economy, as well as health, but the negative effects of the pandemic are not known precisely. It is difficult to indicate estimates of what the effects of Covid-19 will be on the world economy. Even considering what happened in the pandemics of the past, it is necessary to consider that interdependence is greater today. According to the OECD report entitled „The world economy at risk” The impact of the Covid-19 outbreak on economic prospects is severe¹⁰. Coronavirus represents its greatest danger to the global economy since the last financial crisis of 2008. Negative estimates of damages can be a starting point not only of an economic nature, but also of a social, spiritual, human and religious nature. There are still many uncertainties: it is still unclear when the restrictive measures on the mobility of people will end, what will be the mortality rate, how long will be the extent of the interruption of production activity, how and how long it will be possible to recover the cheap damage. This means that to face the situation after the acute phase of the pandemic, good economic measures and analyzes will be needed, but also social analyzes, sociological and psychological analyzes, religious analyzes.

Even the Churches have undergone an economic compression, since in the absence of the celebration of the masses the offerings were lacking. For example, in France it has been calculated that the economic loss due to the non-celebration of the masses for the ten weeks of confinement has reduced revenue by around 40-50 million euros. However, this did not lead to the decrease in the works of charity; on the contrary, the spread of human solidarity has allowed the various caritas organizations, the Catholic voluntary organizations, the associations to support the increased request for help, offering food, family spending, money to pay bills and debts. These activities were added to the initiatives of the governments, proving fundamental also as a special human and economic response.

The pandemic is a complex, global and total phenomenon and for this reason all energies must be brought together: economic, social, spiritual, religious energies. Above all, it will be necessary to put the human person at the center of every action and it will be necessary to reconstruct the rules of coexistence in order to protect the human person, his dignity, his rights. It is necessary to build a personalist humanism on the basis of the Document on human brotherhood for world peace and common coexistence, signed in February 2019 in Abu Dhabi by Pope Francis and the Grand Imam of Al-Azhar, Ahmad Al-Tayyib¹¹. In this document everyone is asked to commit themselves „to spreading the culture of tolerance, coexistence and peace”, ending conflicts, environmental degradation and cultural and moral decline, and implementing „an equitable distribution of natural resources, which benefits only a minority of rich, to the detriment of the majority of the peoples of the earth”.

The pandemic also creates opportunities for change (in the dynamics of society, economy, culture, work). But, to change the lifestyle it is necessary to find the reasons that help us make this change to create human well-being.

¹⁰ OECD Interim Economic Assessment (2020, 2 march), *Coronavirus: The world economy at risk*, <https://www.oecd.org/berlin/publikationen/Interim-Economic-Assessment-2-March-2020.pdf>

¹¹ *Human fraternity for world peace and living together* (2019), the document is available in http://www.vatican.va/content/francesco/en/travels/2019/outside/documents/papa-francesco_20190204_documento-fratellanza-umana.html; Tornielli, A (2019), “Pope and the Grand Imam: Historic declaration of peace, freedom, women’s rights”, *Vatican News*, <https://www.vaticannews.va/en/pope/news/2019-02/pope-francis-uae-grand-imam-declaration-of-peace.html>.

5. THE PROTECTION OF RELIGIOUS FREEDOM AND THE ROLE OF RELIGION FOR THE BENEFIT OF A GOOD ECONOMY

The pandemic must make us reflect on the limits of human nature and on the importance of considering the future with humility. It must also make us reflect on the consequences that affect the increase in poverty, the growth of needs, the condition of developing countries, the violation of human rights and the dignity of people. „Faced with these dramatic problems, reason and faith help each other. Only together will they save man”, as Pope Benedict XVI wrote in the encyclical *Caritas in Veritate* of 2009, in continuity with the teaching of John Paul II in the encyclical *Fides et ratio* of 1998. On this same path is Pope Francis in the Exhortation apostolic *Evangelii gaudium* of 2013 and in the social encyclical *Laudato Si* of 2015, which concerns the care of the common home.

Religions have made a sort of alliance against the pandemic that has strong points in prayer and joint responsibility. These are two important points that all religions have indicated internally and to their faithful as a way forward because it is consistent with the theological content of their religious message.

Faced with the gravity of the current moment, for example, on April 14, 2020, the World Council of Churches (an ecumenical organization that collects 349 Christian denominations in the world) appealed to Trump to cancel sanctions on Iran during Covid-19, regarded as inhuman measures affecting the weaker part of the population. In the awareness that „the new coronavirus is a common enemy of humanity everywhere” the CMC invites to give a response „of solidarity and cooperation”¹².

Another important document was signed in Abu Dhabi on December 2019 during the Sixth Assembly of the Forum for Promoting Peace. It is the new „Charter of the new alliance of virtue” signed by a group of the world’s most respected Islamic scholars, faith leaders joined by experts from governments, and representatives of civil society organisations to build global peace, based on tolerance and religious freedom in¹³, according to which religious freedom belongs to the ontological status of the human being. The Charter includes the important affirmation, that is: „another is rights that exist prior to the state and inhere in each human being by virtue of his or her existence. Such rights are typically understood as deriving from a greater-than-human source, such as God or nature, for the believer or non-believer”. Consequently, the dignity of the person and his rights must always be defended, especially in the face of such serious situations as the pandemic.

Numerous episcopates of the Catholic Church have also given indications to the faithful to protect the good of health, following the indications of the governments, and at the same time they are organizing themselves for the resumption of religious rites.

The list of religions that have taken a position of responsibility and collaboration with public institutions is very long. It is important to understand that the action of religions follows (albeit with many differences) two directions: an internal direction to support the right to the practice

¹² In *AsiaNews*, <http://www.asianews.it/news-en/World-Council-of-Churches-to-Trump:-amid-Covid-19-emergency-lift-sanctions-from-Iran-49809.html>

¹³ The full text in <https://gulfnews.com/uae/government/charter-of-new-alliance-of-virtue-read-full-text-1.1576010355082>.

of cults and training as religious freedom (to overcome the obstacle of the meeting ban, the use of technological communication has created a large global community) and an external one, stimulating all forms of solidarity for the benefit of the poorest, including through collaboration with public administrations with all forms of help (food, health, psychological, ...).

This common commitment of the different religions has essentially concerned actions within civil society to prevent the transmission of the virus, safeguard the body's right to health, carry out solidarity actions towards the people who need. This is an important statement to confirm the need for religious cooperation to overcome differences and aim for tolerance and respect as objectives of human coexistence.

The objectives of collaboration and solidarity are consistent with the message of religions and draw an ethical and moral patrimony that also inspires the common reaction towards putting in place actions to counter the economic crisis.

The pandemic after the passage of the acute phase in the world will continue in another way, also because the economic, human, moral, psychological problems will unfortunately still be evident. A kind of apocalypse seems to be born on the horizon, but this apocalypse must be understood as an experience that contains, however, elements of positivity and rebirth after the hard test¹⁴. During the experience of the pandemic, religious authorities have shown great responsibility for facing the seriousness of the situation and accepting the limitations imposed by governments. The social and economic consequences of the pandemic impose a reflection on the negative effects that are projected in the future, such as the increase in poverty, the increase in inequalities, the violation of human rights, the increase in conflicts, the crisis of human and family relationships. The collaboration between the state and religions in the face of these situations finds new values and new ideals, generating a new relationship between reason and faith, which „help each other. Only together will they save man”¹⁵. This must be the characteristic of a new style of relationships based on mutual trust and not on the management of an *ad excludendum* power, which tends to sacrifice the religious freedom of people and religious communities. This new path of mutual trust concerns the relations of states with all religions, which guide their faithful in fidelity to religious values and in respect for civil authorities, even when they limit religious freedom (albeit temporarily). So, for example, the UAE council issued a fatwa, which even during Ramadan does not allow prayers in mosques, but invites the faithful to alternative moments in the family (it is The UAE fatwa on fasting and prayers in Ramadan 1441, April 19, 2020).

The pandemic is teaching to be together and, in this direction, collaboration between religions and civil society can be important in relation to the economic crisis. In fact, technical solutions are not enough to overcome the crisis. It is important to reconstruct the rules of justice and morals and these rules can only be respected if religious sentiment becomes deeper and more alive in people and institutions. The serious world situation of the future suggests a new way of protecting religious freedom, promoting collaboration between the faithful and citizens, between religious communities and civil institutions. In fact, the right to religious freedom is a right that

¹⁴ According to the perspective of Cardini, F. (2020), *Dopo l'Apocalisse. Ipotesi per una rinascita*, Edizioni La vela.

¹⁵ According to what Pope Benedict XVI wrote in the 2009 encyclical *Caritas in veritate*, in continuity with the teaching of John Paul II in the 1998 encyclical *Fides et ratio*. Pope Francis is on this same path in the Apostolic Exhortation *Evangelii gaudium* of 2013 and in the social encyclical *Laudato Si* of 2015, which concerns the care of the common home.

also contains a duty: it is a subjective right that is projected through a civic duty to affirm justice and brotherhood. In the challenge facing humanity it is not the management of a power in favor of the few and to the detriment of many, but the common commitment for the protection of the „common house”: economy, communication, culture, politics must foster respect, tolerance brotherhood for the progress of all, seeking new balances between people, rights, duties, societies, religions.