I. Summary and Overview

Can Italy manage to accommodate greater social diversity? Or will Muslim immigration deepen cultural tensions, instability, and local conflict, especially under conditions of economic recession and joblessness?

This question does not concern Italy alone. On the contrary, it is a problem for Europe all together. The results of the June 2009 elections to the European Parliament have shown the relevance of the anti-immigrant vote. The events of recent years have layered a security dimension over preexisting concerns about immigrant integration frequently posed in the past with respect to Muslim communities in liberal democracies. The resurgence of far-right groups intensifies the feeling of an anti-Muslim wind blowing across European countries. Their warnings focus primarily on three elements: the terrorist threat posed by radical Muslim European populations, a cultural “invasion”, and some demographic “swamping” by Muslim communities (with higher fertility rates). Moreover, Muslim groups raise a distinct set of problems such as protecting women and the role of religion in the public sphere. Often, there is the tendency to exaggerate the degree of conflict between the norms of mainstream practices and the practices of religious minorities such as Muslims. Nevertheless, it remains true that traditional Muslim norms and attitudes can sometimes conflict with the liberal principles of equality, freedom, and nondiscrimination.

The main thesis of this article posits that, under high levels of institutional insecurity, islamophobia (prejudice about Islam and Muslims) will be more intense and will likely lead to violence. Islamophobia and intolerance are at risk to become widespread sentiments in Italy (and in Europe). According to the author’s thesis, these sentiments cannot be adequately faced or contrasted without appropriate legal reform.

Recently in Italy, the accommodation of Muslim norms has occurred along two ways: collective and individual. Each way follows a different logic. The collective way follows the logic of institutional corporatism. By institutional corporatism, I mean the

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attempt to integrate Islam as a corporate actor into an already established state–church regime. The individual way follows the logic of individual rights. All modern constitutions include religious liberty clauses that legally do not stop short of Muslim believers. The two ways allow for diverging paths. The individual way immediately applies whenever constitutional religious liberties are violated. Accordingly, the integration of Islam has been, first and foremost, promoted by higher courts. Courts have given space to religious practices in various parts of daily life.¹

By contrast, accommodation on the collective way has been much slower because of the historical inertia of established state–church regimes. Various Muslim organizations in Italy have attempted to stipulate “intese” (special agreements) with the Italian state since the early 1990s. Unfortunately, Muslims’ efforts to achieve full legal recognition so far have not been successful. Apart from presenting requests for intese, Muslims have articulated claims regarding the right to an appropriate practice of their religion. These demands concern two spheres: the informal public space peculiar to civil society (such as founding of associations, opening of places of worships, and cultural and social initiatives) and the formal public space subject to the direct control of central and local institutions (cemeteries, specific food in school, Islamic slaughtering, teaching religion at school, and recognition of Islamic religious holidays).

In this article, the author suggests adopting a model of legal intervention for integrating Muslims into Italian liberal democracy. This model is called “pluralistic institutional approach to integration”, based on a “power sharing approach”. It requires a conceptual break with absolute, unlimited and undivided sovereignty and jurisdiction. Such a pluralistic institutional approach to integration is defined by two core aspects. First, on a collective level, an agreement with Islam and the subsequent recognition of a legal status of Islam, now the second largest religion in Italy, must be achieved. The existing pluralism of minorities, especially Muslims, in Italy must be integrated into the institutional framework. Muslim representation should not be based, as it is actually foreseen in the Italian legal system, on a corporatist form that can be led or even imposed by the state in a “top-down” way, but instead should be based on an institutional integration of civil society. Civil society should play a greater role because they are more comfortable with a variety of Muslim voices, groups and representatives.

On the individual level, a pluralistic institutional approach to integration encourages the accommodation of some of the most pressing minority demands in limited areas of family law, for example in cases of marriage and divorce. It would allow Muslims to follow their cultural and religious norms, while safeguarding key liberal values.

In this article, I will not use the generic term sharia (Islamic law) but the term Muslim norms, because I want to underline that some Muslims are calling for accommodation of norms that derive from their understanding of their religion, including not only standards based or derived from sharia or fiqh (jurisprudence), but also general ethical principles derived from Islamic religious culture.² The focus on religious norms