

The role of Mario Piacentini and Mario Falco in the drafting of the Italian fascist laws on religious minorities and Jewish communities, highlighting the danger of nationalism for the freedom of religion or belief.

The contribution aims to demonstrate how the thesis that sees racism in the genetic code of fascism finds a clear counter-proof in ecclesiastical politics of the Mussolini era; and it shows that the fascist ecclesiastical policy finds its ideological roots in the nationalism of the first decade of the twentieth century, in which the forces that pressed for the protection of national identity soon came to see with suspicion the religious minorities existing in Italy.

1. The turning point of 1929. It is well known that 1929 constituted one of the fundamental turning points of Italian ecclesiastical law; in fact, the seventh year of the fascist era represents a moment of rupture with respect to the ecclesiastical policy of the liberal state, and at the same time the beginning of the era of concordatarian confessionism (a kind of confessionism that would characterise republican history in many ways until 1984, and explain its effects up to the present moment)¹.

The ecclesiastical policy that led to the reforms of 1929 had its roots when the rights of freedom were suppressed and denied in much of Europe. The victory of totalitarian nationalist ideologies - a victory that opened the way to the Second World War - destroyed individual freedoms in those systems, sacrificed on the altar of the totalitarian state and its superior purposes.

In Italy, in particular, the fascist regime implemented an ecclesiastical policy dictated from the point of view of a public interest in protecting religions, considered institutions and ethical-social forces necessary for civilisation and for the state, an interest deriving from the preponderant role assigned by Fascism to the phenomenon of religious tradition and its impact on the population.

The Catholic religion was seen as a fundamental tool by which to achieve the ethical ends of the state and to provide it with broad legitimacy by virtue of the influence of the ecclesiastical hierarchies on the masses, and was considered capable of playing a fundamental role in the moral development of the individual and society.

¹ P. BARILE, *Appunti sulla condizione dei culti acattolici in Italia*, *Il diritto ecclesiastico*, 1952, I, p. 342-355; P. GISMONDI, *L'autonomia delle confessioni acattoliche*, *Il Foro Italiano*, 85, 6, 1962, col. 97-112; P. FEDELE, *Uguaglianza giuridica e libertà religiosa*, in AA. VV., *Studi in memoria di Guido Zanobini*, IV, Milano, 1965, pp. 115-195; G. PEYROT, *La politica dello Stato nei riguardi delle minoranze religiose*, Bologna, Il Mulino, 1971; F. MARGIOTTA BROGLIO, *Italia e Santa Sede dalla Grande Guerra alla Conciliazione. Aspetti politici e giuridici*, Laterza, Roma-Bari 1966. ID., *La 'pace religiosa' del 1929*, in A.C. JEMOLO, (a cura di), *Un secolo da Porta Pia*, Guida Editori, Napoli 1970, pp. 299-314; ID., *La rilevanza costituzionale dei Patti Lateranensi tra ordinamento fascista e Carta repubblicana*, in A. MELLONI (a cura di), *Cristiani d'Italia. Chiese, società, Stato 1861-2011*, Istituto dell'Enciclopedia Italiana, Roma, 2011, pp. 713-729; L. DE LUCA, *La qualifica dello Stato in materia religiosa*, in AA.VV., *La legislazione ecclesiastica*, a cura di P.A. d'Avack, Vicenza, 1967, p. 325- 356; E. VITALI, *Legislatio libertatis e prospettazioni sociologiche nella recente dottrina ecclesiasticistica*, *Il diritto ecclesiastico*, 1980, p. 24- 67.

Religion thus declined from the expression of an individual's spirituality to a mere *instrumentum regni*²: it consequently found a peculiar protection, centred on the political role that was entrusted to it in the construction of the system. This was a system that - through the enhancement of the (weakened) provisions of Article 1 of the Albertine Statute and a substantial regulatory complex aimed at repressing the spaces of freedom for dissenting Catholics and non-Catholics - sacrificed individual religious freedom on the "ecclesiastical freedom" altar of the Catholic Church, completely neglecting the religious interests of individuals or protecting them to the extent that they coincided with the interest of the ecclesiastical institution³. Consequently, religious freedom cannot be considered ascribed to individuals except as a reflective effect of the freedom guaranteed to the Church of Rome by the concordat rules⁴.

The Lateran Pacts of 1929, in effect, attributed civil effects to religious marriage, chosen by the great majority of Italians. Catholics were thus placed in a favourable situation with respect to all other citizens, taking into account that the special regime of canonical jurisdiction and that the regime of nullity, in the absence of divorce, paradoxically allowed only Catholics the (belated) dissolution of the marriage bond. Again, the second paragraph of Art. 1 of the concordat took into account the so-called "sacred character of Rome" - bishopric of the Supreme Pontiff - in order to prevent anything that may be in contrast with that character. Similarly, in school matters, while the "Coppino law" of 1877 had removed the Catholic religion from the compulsory subjects of elementary school, Art. 36 of the concordat confirmed the scholastic reform already implemented in 1923 and recognised "the teaching of Christian doctrine in consonance with the form received from the Catholic tradition" as "the foundation and crowning of public education", extending its teaching, envisaged in 1923 for the elementary grade only, even to middle school.

More generally, however, the Pacts were, at the same time, the point of arrival and departure for a dynamic of de-secularisation that would involve the entire (unilateral) legislative production of the state⁵.

Religious minorities were regulated in law no. 1159 of 1929 and in the related Royal Decree no. 289 of 1930. These normative measures - an evident expression of the jurisdictionalist and confessional ecclesiastical policy pursued by the fascist government up to the anti-Jewish provisions of 1938 - not only manifested an unequivocal purpose of "guaranteeing the fascist public order" in those regulations aimed at supervising the activity of the ministers of religious cults -and to legitimise the interference of the state in the management of some affairs of the non-Catholic ecclesiastical groups, but more generally they

² See P. Scoppola, 'Patti lateranensi', in . De Grazia, S.Luzzatto (eds), *Dizionario del fascismo*, 2 vols. (Turin: Einaudi, 2002/2003), II: 342-7; J. POLLARD, *Catholicism in Modern Italy: Religion, Society and Politics Since 1861*, Routledge, 2008, pp. 69- 99.

³ E. VITALI, *Vilipendio della religione dello Stato*, Cedam, Padova, 1964, pp. 86-89.

⁴ See E. Gentile, 'New Idols: Catholicism in the Face of Fascist Totalitarianism', *Journal of Modern Italian Studies*, 11, 2 (2006), 143-70

⁵ See E. Gentile, 'Fascism as Political Religion', *Journal of Contemporary History*, 25, 2/3 (1990), 229-51;

denied at its root the "equal freedom" of all religious confessions (which is the founding principle of all current ecclesiastical law) as well as the principle of the distinction of orders (temporal and spiritual, which is an integral part of the supreme principle of secularity of the state)⁶.

The purpose of this contribution is to underline how the validity of many rules that gave life to the "system" that was perfected in 1929 is a clear symptom not only of the difficulty of the Republican Parliament elected after the fall of the fascist regime to take full responsibility for the "promise of secularism" contained in the 1948 Constitution, but ultimately also of a certain "resistance force" of that world of ideas which was behind the structure of the subsystem of ecclesiastical law imagined by the fascist government. A sort of "soft base" of clerical misunderstandings and mistrust of religious minorities, combined with a singular respect for the concordat seen as a privilege in favour of the Catholic confession - a privilege that, for the sake of truth, the Holy See in the post-Vatican II era showed that it did not want to maintain at all costs - in fact paralyzed the political debate on the subject of regulatory instruments intended for the general legal protection of religious minorities in the context of constitutional principles, and determined the debate on the subject without paying much attention to the groups that remained outside this "sui generis" concertation⁷.

However, it cannot - and must not - be hidden that this political disengagement with the legal status of religious minorities in Italy, whatever the reason, has allowed the perpetuation of a fascist legislation, in character, structure and consequences, which the courts have only partially succeeded in applying in a manner purified from the dross of a structural and ontological inequality, radically contrary to the constitutional provisions⁸. The misunderstanding that must be forcefully cleared away is that basically the legislation on "admitted cults" and the so-called "Falco law" on Jewish communities, which are structurally part of a system based on Law 810 of 1929, constituted a re-proposal of the principles of freedom of conscience and religion, and of juridical equality without distinction of religion which was the ecclesiastical law of liberal Italy. The empty re-proposal of some formulas is inserted, in fact, in a system diametrically opposed not only to the Cavourian formula "free Church in a free State", but - more incisively - in total opposition to the vision of religious consciousness as an intangible sphere and to the belonging that is connected and pertains to this sphere as totally irrelevant as regards the enjoyment of civil and political rights. Angelo Ventura's thesis, according to which "racism was in a nutshell in the genetic code of fascism"⁹, finds a clear counter-proof in the ecclesiastical politics of the first seven to eight years of the Mussolini era, and clearly shifts the movement of historical responsibility and cultural

⁶ See P. Scoppola, *Il fascismo e le minoranze evangeliche*, in S. FONTANA (a cura di), *Il fascismo e le autonomie locali*, Bologna, Il Mulino, 1973, pp. 331-394

⁷ S. Lariccia, *La libertà religiosa nella società italiana*, in AA.VV., *Teoria e prassi delle libertà di religione*, a cura di P. Bellini, Bologna, il Mulino, 1975, pp. 313-422

⁸ See P. Calmandrei, *Innesto confessionale*, in *Civiltà moderna*, 1947, 7-11.

⁹ A. VENTURA, *La svolta antebraica nella storia del fascismo italiano*, in "Rivista storica italiana", CXIII, 2001, 1, p. 40.

experiences of ninety years of inaction, or rather, of incomplete and partial action subject, over time, to oxidative or even entropic processes of absolute evidence.

2. In nationalism the roots of the ecclesiastical politics of fascism. As is the case with every regulatory reform of the system - and no one can doubt the systematic nature of the legislative package on ecclesiastical matters approved by Parliament in the years 1929-30 (a character which was clearly highlighted by Giacchi¹⁰, Piacentini¹¹ and Del Giudice¹² in his manual) - the fascist parliamentary debate was anticipated by a cultural and political debate which - although mainly focused on conciliation - did not fail to reserve space for the question of the situation and legal status of religious minorities in Italy.

In a 1923 paper in "Gerarchia" – the official journal of fascism founded by Benito Mussolini and characterised by the collaboration of a close circle of authors of clear proximity to the orthodoxy of the Duce - Arrigo Solmi, historian of law who at the time covered the office of Rector of the University of Pavia, was very clear in underlining how "religion, and the Catholic religion in particular" should be considered "a great force in the life of civil society", and that nothing forbade "that the Italian Government, like all civil governments "could" make use of it, within just boundaries and with due precautions "¹³.

This passage highlights three strong ideas that cannot fail to have an impact on fascist ecclesiastical politics. First: religions are not negative in themselves, but can represent a positive axiological and ideological structure for civil society. In Italy, however, the Catholic religion must be ensured a prominent place as a structural element of the life of the nation, and it must certainly be given a positive value. Other creeds can be considered positive ideological structures only "within the right boundaries" and "with due precautions". This suggests that it is up to the powers of the state, and in particular to the legislator, to consider the relationship between the development of the fascist state and the profession of a creed other than Catholicism, which must be recognised, in fact and in law, as of a peculiar prominence.

Solmi's thought finds significant similarities with the ideas of the Minister of Justice, Alfredo Rocco, who in the presentation of the bill on admitted cults to the Parliament in the session of 30 April 1929, remarked that "the state, (...) while professing the Catholic religion, which is the religion of almost

¹⁰ Orio Giacchi was full professor of ecclesiastical law at the University of Macerata; he later taught at the University of Modena and from 1940 and for over forty years at the Catholic University of Milan. He was among the signatories of the manifesto of anti-fascist intellectuals; during the resistance he joined the Christian Democracy and was its representative in the Upper Italy National Liberation Committee. In 1967 Pope Paul VI designated him for the pontifical commission *Iustitia et pax*. See O. GIACCHI, *La legislazione italiana sui culti ammessi*, cit., p. 7 s.

¹¹ Mario Piacentini was a magistrate, of Waldensian religion, who held positions at the Ministry of Justice and is considered the "father" of the 1929 law on non-Catholic cults admitted to the State. See M. PIACENTINI, *Nel decennale della legge sui culti ammessi*, cit., pp. 7 ss.

¹² Vincenzo del Giudice was University Professor from 1923 to 1954; he taught in Catania, Perugia, Macerata, Pisa, Florence, Milan (Catholic University) and Rome. Distinguished scholar of ecclesiastical law, he wrote a famous manual. See V. DEL GIUDICE, *Corso di Diritto ecclesiastico*, IV ed., cit. pp. 214 ss.

¹³ A. SOLMI, *Nuove tendenze nelle relazioni tra lo Stato e la Chiesa*, in *Gerarchia*, II, 5, 1923, pp. 932 s.

all Italians, also allows, and therefore protects, the exercise of other cults, when there is no damage to essential principles that govern the life of the state”¹⁴. Thus reaffirming the pre-eminence of the Catholic religion as the religion of Italians, Rocco found a need to safeguard the freedom of conscience, religion and worship only in the context of inequality: in the sense that religions other than Catholicism could not be recognised as true and proper means of developing the civil life of the Italian nation in a positive way. This deficit could not fail to have repercussions not only on the level of equality, but also on the very possibility of admitting a cult within the territory of the state. Admission, in the words of Rocco himself, thus becomes a synonym of tolerance: or, as Felice Battaglia points out in the Italian Encyclopedia (1937), of mere abstention from persecution (it should also be noted that Battaglia is instead convinced of the discontinuity between the concept of "tolerated cults" and that of "admitted cults" inaugurated by law 1159/1929).

The ideas expressed by Rocco in the preliminary report come from a long intellectual development. On 23 December 1913, taking the floor at the conference of the Nationalist Association, he argued that "beyond the individual, beyond the class, beyond humanity" existed "the nation, the Italian race"; a strongly nationalist vision, on ethnic and linguistic bases, which, however, included a very clear confessionalist reference:

*"nationalists believe (...) that the state cannot ignore that very important and fundamental social phenomenon that is religion. And since the religion of the majority of Italians is the Catholic religion, the Italian state cannot ignore the Catholic Church and the Catholic religion. Indeed, it must take into direct consideration the interests of Italian Catholics, insofar as they are compatible with the interests of the nation. (... However) nationalists are not clerical for this fundamental reason: that they regard the interests of the nation as pre-eminent and absolute and religious interests as ancillary and subordinate. Therefore, the nationalists do not believe that the state must be an instrument of the Church: they believe instead that the state must assert its sovereignty even in front of the Church. Only, since they recognise that religion and the Catholic Church are very important factors in national life, they always want, without prejudice to the sovereignty of the state, to protect Catholic interests as far as possible."*¹⁵

The identity between Italian and Catholic, between the interest of the state and the role of the Catholic Church in Italian life, clearly raises the question of religious minorities within the perspective of Rocco's nationalism: what role can be recognised for those who profess a cult other than that which has been the common heritage of the Italian people for centuries, and which contributed with its moral substratum the reference values for the ethical moment of the state? There must not only be reverence and respect, towards that cult, but even observance and obedience: as Rocco himself argued in 1925,

¹⁴ A. ROCCO, *Scritti e discorsi politici*, III, Milano, 1938, p. 1032

¹⁵ A. ROCCO, *Che cosa è il nazionalismo e che cosa vogliono i nazionalisti*, Roma, 1914, pp. 21 s

“the cult of the fatherland is not politics, it is the duty of all Italians; like the respect and practice of the Catholic religion, which is the religion of the state, is not and must not be an instrument of politics, but a form and necessity of life”¹⁶.

The ethnic and ethical nationalism - even on a religious basis - of Alfredo Rocco cannot fail to have had weight in the vision of religious minorities as groups towards which a structured institutional mistrust would develop: from this point of view, the publication of the "Circular Buffarini-Guidi" cannot be considered a turning point, but a simple and natural evolution in the history of ordinary fascism.

3. The role of Mario Piacentini and Mario Falco. One might wonder how it is possible to imagine such a conclusion in the face of the fact that two well-known jurists belonging to non-Catholic confessions, namely Mario Piacentini and Mario Falco, actively collaborated in the drafting - respectively - of the law 1159/1929 and the Royal Decree 30 October 1930, n. 1731 (Norms on the Jewish Communities and on the Union of the Communities Themselves).

In fact, the temptation to configure the aforementioned laws as the result of a sort of "informal negotiation" with some high representatives of the minority confessions present in the country is bound to appear partial and misleading: partial because it does not consider positions different from those of the illustrious jurists mentioned, and misleading because it removes the question from the context of ethnic and ethical nationalism that characterised fascist thought.

As for Mario Piacentini, it is well known that he was appointed as secretary of the Ferri Commission for the reform of the Criminal Code and, subsequently, that he was a close collaborator of the Minister of Justice in drafting law no. 1159. Although this last role is not certainly documented - except perhaps in a letter from Piacentini to Davide Jahier¹⁷ - historians such as Spini¹⁸, Long¹⁹, Fantappiè²⁰ and Migliorino²¹ have no doubts about identifying Piacentini, who became a member of the Waldensian Church following his engagement to Bianca Revel, as an influential and powerful collaborator of Alfredo Rocco in the process of drafting the law on admitted cults.

Piacentini was a man of the apparatus, and he was a figure esteemed by the Minister of Justice, but he cannot have had autonomous room for manoeuvre, then within the very narrow boundaries marked by the fascist ecclesiastical policy and - consequently - by the ethnic nationalism that had been at

¹⁶ A. ROCCO, *Scritti e discorsi politici*, III, cit., p. 989.

¹⁷ Davide Jahier was professor of literature and dean of the Waldensian College of Torre Pellice, mayor of the municipality of Torre Pellice, director of the periodical "L'Avvisatore Alpino", lay member of the Waldensian Table, president of the Waldensian Studies Society, author of historical writings. The letter is quoted by D. FERRARI, *Le minoranze religiose nel pensiero di Mario Piacentini*, in Id., *Le minoranze religiose tra passato e futuro*, Torino, 2016, p. 198, but it is not a public document.

¹⁸ G. SPINI, *Il protestantesimo italiano del Novecento*, Napoli, 2005, pp. 45 ss.

¹⁹ G. LONG, *Mario Piacentini. Il "padre" della legge sui culti ammessi?*, in D. Bognandi, M. Cignoni, *Scelte di fede e di libertà. Profili di evangelici nell'Italia unita*, Torino, 2011, pp. 161 ss.

²⁰ C. FANTAPPIÈ, footnote 2 to the letter n.72, in Id. (a cura di), *Lettere di Ernesto Buonaiuti ad Arturo Carlo Jemolo, 1921-1941*, Roma, 1997, p. 172.

²¹ F. MIGLIORINO, "Piacentini, Mario", in *Dizionario biografico dei giuristi italiani (XII – XX secolo)*, II, Bologna, 2013, pp. 1567 s

the basis of the whole hairpin of '29. What Piacentini could do was to be as respectful as possible of the principles of freedom of conscience and ecclesiastical freedom, a normative dictation that was structurally prepared, conceived and realised by the fascist regime as jurisdictionalist, from the perspective of an inequality and disparity of treatment with respect to the legal status envisaged for the Catholic Church. This perspective was due to the supposed extraneousness of religious minorities to that confessional unity which – in consonance to Rocco - constituted, alongside the identity "of the origins, (...) traditions, customs, language", an element of the Italic "awareness of constituting a the only social organism, the nation"²². Piacentini's intervention, however, could not avoid that - in Giorgio Spini's words - "the fascist regime guaranteed a heavy interference in evangelical churches, granting or denying recognition as a minister of worship"²³ ; and even more he could not follow up on the Italian Protestantism current of thought - very authoritatively represented by Davide Jahier - which believed that it would be necessary to "soon replace the outdated article 1 of the Statute with a clear and explicit short law proclaiming full religious freedom based on separation between Churches and the State"²⁴.

Indeed, Jahier subsequently pushed the Waldensian synod to support Piacentini's action: however, this cannot in any way be seen as a betrayal of the "separatist option" that was strongly present in the Italian Protestant world, but rather an attempt to bring back freedom of conscience, worship and propaganda within the framework of the guarantees offered by the liberal state even in the face of an evident compression of all the rights of freedom that fascism was progressively accomplishing.

The collaboration of Mario Falco²⁵ with the drafting board of the Royal Decree 1731/1930 is probably linked to this kind of pragmatism; according to Aldo Mazzacane, Falco adhered to a "shrewd sense of opportunity" in an attempt to give Italian Judaism "moderate legislation, capable of adapting the community regime to the constitutional transformations underway" in order to "strengthen the central representative body, strengthening the weak relations it had with local realities, without necessarily *fascitizing it* (as some also wanted)."²⁶

In February 1927, convinced that it was only possible to reunite the Italian Jewish world within co-operation between Judaism and the government, and at the same time to ensure that the Jewish communities and their members could enjoy the faculties linked to the right of religious freedom, Falco therefore entered the juridical commission of the Committee of the Consortium of the Jewish Communities chaired by Adolfo Berio, which also included Angelo Sacerdoti, Angelo Sereni, Nicola Consiglio and Giuseppe Raimoldi²⁷. In October 1929 the so-called "Berio Commission" presented their

²² A. ROCCO, *Scritti e discorsi politici*, III, cit., p. 540.

²³ G. SPINI, *Il protestantesimo italiano del Novecento*, cit., p. 46

²⁴ D. JAHIER, *Il I° articolo dello Statuto e la libertà religiosa in Italia*, Torre Pellice, 1925, p. 30 s.

²⁵ Mario Falco was full professor of ecclesiastical law at the universities of Macerata and Parma, and subsequently at the state university of Milan. He was resigned from the professorship in 1938 due to the racial laws.

²⁶ A. MAZZACANE, *Il diritto fascista e la persecuzione degli ebrei*, in G. SPECIALE (a cura di), *Le leggi antiebraiche nell'ordinamento italiano*, Bologna, 2013, p. 34.

²⁷ M. FALCO, *La nuova legge sulle comunità israelitiche italiane*, in *Rivista di Diritto pubblico*, 1931, I, pp. 512-530.

project for the drafting of the Royal Decree 1731 of 30 October 1930, which together with the provisions of the law of 24 September 1931 no. 1279 and of 19 November 1931 n. 1561 constituted the new normative corpus on Judaism in Italy: a project that was mainly inspired by Falco, so much so that the Royal Decree 1731/1930 was subsequently (and improperly) called the " Falco Law ".

It is well known that the judgments on this normative corpus were and still are very conflicting. In the Biographical Dictionary of Italians, Francesco Margiotta Broglio emphasises that Falco had contested both that the Italian state had a Catholic character, and that it had imposed the new order on the Jews against their will, claiming instead the full compliance of the legislation with the principles of collective freedom of worship, as of the freedom of the individual conscience²⁸. Alberto Cavaglion instead saw a very serious act in the "Falco law", even prodromal to the racial laws of 1938; both because the Falco law institutionalised inequality between Judaism and Catholicism, and because the system of forced membership of the Israelites in the community of residence, pursuant to Art. 4, was in fact a true "civil constitution" of the Jewish confession, capable of creating a form of filing and control that would have facilitated the action of persecuting torturers²⁹.

It must be emphasised that no one can question the intellectual honesty and sincere liberal character of Mario Falco's commitment. Francesco Ruffini himself, who had expressed many doubts about the content of Royal Decree 1731, and, in particular, the content of Art. 4, recognised that Falco had acted providentially to avoid more serious consequences.

The real problem was the political context in which Falco, just like Piacentini, had to move³⁰. A part of the nationalist movement that later merged into fascism had begun a vigorous anti-Semitic battle in Italy, from at least 1921 - the year the "Protocol of the Elders of Sion was translated into Italian " – but maybe from 1913, the year the periodical "La vita italiana" was founded - ³¹. The "spearheads" of this battle were undoubtedly Maffeo Pantaleoni - to whom Piero Sraffa would attribute the title of ferocious fighter against "particular" windmills in the obituary that he was called to dedicate to him in 1924, thus recalling his ideas on economic matters strongly permeated with anti-Semitism³² - and Giovanni Preziosi, a former priest who resigned in 1911 from the clerical state and founder of "La vita italiana", who knew how to give Italian anti-Semitism a ferocious substrate of mystical and religious character.

²⁸ F. MARGIOTTA BROGLIO, voce "FALCO, Mario", in Dizionario Biografico degli Italiani - Volume 44 (1994), [http://www.treccani.it/enciclopedia/mario-falco_\(Dizionario-Biografico\)/](http://www.treccani.it/enciclopedia/mario-falco_(Dizionario-Biografico)/)

²⁹ A. CAVAGLION, L'Italia della razza s'è desta, in Belfagor. Rassegna di varia umanità, anno LVII, n. 1, 31 gennaio 2002 (parte I), pp. 151 ss.

³⁰ I. PAVAN, "Diritti di libertà" e politiche religiose. Sguardi ebraici durante il fascismo (1922–1930), in Annali della Scuola Normale Superiore di Pisa. Classe di Lettere e Filosofia, 5, 5, 1, 2013, pp. 129-160

³¹ L. MICHELINI, Alle origini dell'antisemitismo nazional-fascista. Maffeo Pantaleoni e "La Vita italiana" di Giovanni Preziosi (1915-1924), Venezia, 2011. R. CANOSA, A caccia di ebrei: Mussolini, Preziosi e l'antisemitismo fascista, Milano, 2006.

³² P. SRAFFA, 'Obituary—Maffeo Pantaleoni', Economic Journal, 34, 1924, pp. 648-653

To this, however, it must be added that even at the ministerial level, anti-Semitism was, and even before the racial laws, a well-rooted plant. Once again it was a certain wing of nationalism, that headed by Francesco Coppola, who gave life to an intellectual partnership with Alfredo Rocco.

Coppola and Rocco's anti-Semitic and xenophobic nationalism was nourished by an intense dialogue with Charles Maurras, co-director and ideologist of the Action Française: a dialogue full of anti-Semitism, which led Coppola and Rocco to share positions rooted in the idea of the nation as an "organism biological" characterised by ethnic-religious unity, which started from militancy in the ANI (ANI means Italian Nationalist Association: these were years in which Coppola claimed the existence of a supposed "Jewish conspiracy" that would influence the international press, very critical of the Libyan war) and culminate in the drafting of the Manifesto of December 1918 and in the foundation of the magazine "Politics"³³.

Italian nationalism was not structurally anti-Semitic, however, it cannot be denied that some key figures of political thought in those years, such as those mentioned above, had an evident influence on the ecclesiastical politics imagined by Alfredo Rocco. Moreover, it cannot be forgotten how, in November 1928, an article attributed to Mussolini himself and entitled "Religion or nation", published in "Il Popolo di Roma", fuelled the suspicion that Italian Jews were not really loyal to the nation, perhaps preferring a Zionist political vision aimed at making the power of the "Jewish people, (of the) Jewish race, (of the) Jewish nation" prevail over the power of the Italian people³⁴.

4. The "admitted cults" and national identity from the fascist perspective. The legislation on admitted cults and on Jewish communities therefore arose from a specific political purpose: to police religious minorities and ghettoise them, tolerating their existence until they created harm to the interests of the Italian nation³⁵. This was a story of ordinary fascism, very effectively describing the transition from aggressive nationalism, suspicious of diversity with respect to the "organicistic canon" of ethnic, linguistic and religious unity, to the destruction of the rights of freedom, as had already happened well before the hairpin bend of 1929 with the ordering of school grades and didactic programs of elementary education (RD 2185/1923), and with the decree on the management and supervision of the press and periodical publications (RD 3288/1923).

The decree on elementary school, stating in Art. 3 that the teaching of Christian doctrine according to the form received in the Catholic tradition should be placed at the foundation of elementary

³³ R. D'ALFONSO, Guerra, ordine e razza nel nazionalismo di Francesco Coppola, "Il Politico", 2000, 4, pp. 539-570 ; F. COPPOLA, Europa e Italia, in "Politica", Gennaio 1919, pp. 239-263. E. FONZO, Storia dell'Associazione Nazionalista Italiana (1910-1923), Napoli, 2017, pp. 30- 31.

³⁴(B. MUSSOLINI), « Religione o nazione », Il Popolo di Roma , 29 novembre 1928. See M. MICHAELIS, Gli Ebrei italiani sotto il regime fascista dalla marcia su Roma alla caduta del fascismo (1922-1945): III, in La Rassegna Mensile di Israel terza serie, 28, 8, 1962, pp. 350-368

³⁵ See G.B. VARNIER, Facismo e minoranze religiose: linee di una ricerca, in AA. VV., Scritti in memoria di Pietro Gismondi, II, II, Milano, 1991, pp. 463 - 475; E. VITALI, Le leggi razziali: 1938 – 1945 , in Il Diritto ecclesiastico, 1-2, 2018, pp. 29-35.

education in all its degrees, was not limited to an act of homage to the religion of the majority, but carried out a real cultural revolution, emphasising the Catholic identity of the nation and placing it not as the theological, but as the cultural and political cornerstone of an educational structure founded on the creation of young Italians. The decree on the management and supervision of the press aroused the vehement reaction of Francesco Ruffini, who - in a couple of articles in the *Corriere della Sera* and in the *Giornale d'Italia* - had to highlight how to grant protection against insult by means of the press against only the state religion and not also the admitted cults, clearly clashed with the provisions of the Sineo Law of 19 June 1848, in which it was established that the diversity of professed worship could not be an exception to the enjoyment of civil and political rights.

Ruffini took up these arguments in his famous speech to the Senate on 15 December 1925: on that occasion the response of the Minister of the Interior Federzoni was very eloquent with respect to the idea that the part of nationalism that merged into fascism created a relationship between religion and nation.

Federzoni said:

“Now, for the Italian nation, only the religion of the state must be considered an essential good, worthy of particular objective protection, and not the other cults admitted by the state itself. Without prejudice, therefore, to the provisions of the Penal Code, (...) the Fascist government cannot admit that; from the objective point of view of a more rigorous protection, we continue to confuse, through the old agnosticism of liberalist doctrines, the religion of the State with the other permitted cults: the religion of the State which is quite another thing, that is one of the greatest of spiritual cohesion of the country, of moral elevation of all the Italian people”³⁶.

If this was the role of the Catholic religion, what kind of role could be imagined for the allowed cults? Certainly, they were not an essential asset worthy of protection; certainly they were not a factor of cohesion and elevation. Instead, they were a complex of suspicious rites and beliefs, a potential diversion from the construction of national identity.

This basically allowed the interpretation of fascist confessionalism given by Arnaldo Volpicelli³⁷ to be proposed as the most correct one: even a fascist Italy, seen as the most complete, perfect and mature form of state, aware of having ethical purposes, could certainly hypothesise the legal recognition of a religion, in our case Catholicism, as the state religion. This recognition - as stated in Volpicelli -

³⁶ Ruffini's article and Federzoni's intervention are both published in *La Rassegna Mensile Di Israel*, vol. 1, no. 4/5, 1926, pp. 230–240. JSTOR, www.jstor.org/stable/41275263.

³⁷ Arnaldo Volpicelli was a philosopher of law, disciple of G. Gentile, university professor since 1930; he taught philosophy of law and doctrine of the State at the University of Rome "La Sapienza". See A. VOLPICELLI, *La natura super-confessionale dello Stato italiano*, in «Nuovi studi di diritto, economia e politica», marzo-aprile 1930 (III, II), pp. 89-102 ; Id., *Stato e Chiesa di fronte alla Conciliazione*, ivi, luglio-agosto 1929 (II, IV), pp. 161-70; Id., *Le nuove relazioni politiche tra lo Stato e la Chiesa*, ivi, novembre-dicembre 1929 (II, VI), pp. 305-10.

derives from the fact that the state religion is an institution of a political-legal nature and not a metaphysical one, and determines only and exclusively one of the points of reference of the state as regards the structuring, but not the determination, of ethics and relationships with other cults. The prominence assigned to the Catholic religion derives from the simple fact that it is the traditional religion of the great majority of Italians: it is not the creed or the deep and inner foundation of the state, but only a structuring element of its autonomous ethical personality and institutional relations.

The differences between Volpicelli's theory and the thought of Vincenzo Del Giudice - according to which the state would be re-confessionalised thanks to the Lateran Pacts – are evident. Conforming to Del Giudice, the fascist state would declare itself a confessionist, in the sense of participating, in its legal and social activity, in Christian doctrine in consonance with the form received from the Catholic tradition, and this character of the state would colour all public institutions, so that the rulings favoured regarding the institutions of the Church of Rome would derive from it.

Discussion on this point is not purely academic. In fact, if confessionism in the Catholic sense of the fascist state legitimises the disparity and discrimination of other cults on the basis of the theological-political considerations expressed by Del Giudice, the whole apparatus of implementation of Law 1159/1929 and in particular the infamous circular "Buffarini - Guidi" could be traced primarily to the thrusts of the ecclesial world aimed at repressing the proselytism of evangelicals and Pentecostals: the whole normative apparatus born in the hairpin of 1929 would therefore become a sort of jurisdictionalist instrument in the sense of the defence of the Catholic Church and of Catholic doctrine from a theological and ecclesial point of view, as well as a sociological one.

In reality, the repression of religious minorities arose, as has been demonstrated, with the most extreme nationalism that would later merge into fascism: and the purpose of this repression was not so much the theological and ecclesiological defence of the Catholic Church (this is at least a mediated result), but rather the defence of the fascist state from potential enemies, albeit apparently collaborative and harmless, dangerous for that organicistic and holistic fascist vision of the "Italian citizen" as white, Catholic, faithful to the *Duce*, heterosexual and the father or mother of a family that recognises fascism as the supreme point of ethics.

5. Conclusions: what can we learn from the "deep yesterday"? At this point it would be easy to end this paper by highlighting the danger of nationalism for the freedom of religion, given the undoubted (and we believe satisfactorily demonstrated) link between Rocco's nationalism and the genesis of the legislation on admitted cults; and it would be equally easy to comment on the relationship between sovereignty and nationalism, highlighting how the homogenisation of these two concepts ends up reproducing a systemic crisis that compromises the neutrality of the state and introduces a series of privileges for the religion that is the cultural tradition of reference.

In reality, the question is more complex. Italian sovereignty, far from identifying itself with the aggressive nationalism of the early twentieth century, seems to represent the classic silent majority call for order, stability, development, and respect for traditional values: it seems a sort of modern "conservatism". It is, in part, a "Catholic" sovereignism, supported by a good number of people who recognise themselves as belonging to the Catholic Church (even if not necessarily practicing regularly).

Since 1994, the year of Silvio Berlusconi's "descent into the field", of the implosion of the Italian Popular Party and therefore - in fact - of the end of the political unity of Catholics, the Italian Catholic Church has developed various strategies aimed at defining the essence and modality of the commitment and participation of the faithful in the administration of public affairs.

Alongside the official position of the Italian Episcopal Conferences, different movements - that are generally independent and sometimes extremely influential - have moved (and continue to move) within the political chessboard: the (leftist or right-wing) movements of catholic intellectuals, through conferences, newspapers, radio and television programs; the movements of Catholics involved in the social sector, who have built or contributed to developing realities of concrete help to people; and, finally, the movements capable of bringing "to the streets" ideas linked to a precise vision of the magisterium and its role in the public sphere (from the people of the so called "Family Day" to the "Standing Sentinels").

The position of the Italian Bishops' Conference has - over the years - fluctuated, albeit always focused on some basic principles. From Cardinal Ruini's project ("it is preferable to be challenged than to be irrelevant"), the Italian catholic Church moved towards the centrality of the "question of the morality of the politician", expressed earlier by Cardinal Bagnasco and subsequently by Monsignor Crociata and Monsignor Galantino, and finally paid attention to specific issues (family, third sector, migration) accompanied by a strong anti-sovereign appeal and a recent reproach against the use of religious symbols in politics (see the reaction of Cardinal Bassetti at the closing rally of the electoral campaign which saw Matteo Salvini as protagonist in Piazza del Duomo in Milan).

The fact that there is a Catholic sovereignist vote despite the position of the hierarchies encourages some considerations: on the one hand it must be emphasized that there is a significant number of people who - although not regularly attending liturgical practice - continue to declare themselves convinced Catholics, because they recognise - on a cultural and identity level - something close to the positions of the Church of Rome, at least on some specific issues. This closeness (second consideration) means that some parties - insofar as they approach those issues according to the traditional vision of the ecclesiastical magisterium - know how to "intercept" the vote of these people (which we could call "belongers") regardless of their actual will to follow the official canon on liturgical practice. Precisely for this reason, a few years ago, the category of "non-negotiable principles" was at the heart of the public debate. The doctrinal note of 2002 on the commitment of Catholics in politics provided an

example of the fundamental and inalienable ethical needs, in which the essence of the moral order is at stake, which concern the integral good of the person: there are those that emerge in the state laws in matters of abortion and euthanasia, those concerning the protection and promotion of the family, based on monogamous marriage between persons of different sexes, protected in its unity and stability; those that guarantee the freedom of education to parents for their children; those that guarantee the social protection of minors and the liberation of victims from modern forms of slavery (such as drugs and the exploitation of prostitution), including in this list the right to religious freedom and the development of an economy that is at the service of the person and the common good, respecting social justice, the principle of human solidarity and that of subsidiarity. It must be emphasized that many Catholics see the sovereigntist front as a group of parties that are not willing to negotiate politically on these principles, and choose to support it in the name of loyalty to a set of values that are considered axiologically prevalent. It is equally evident that there can be signs of devotion, such as exhibiting the rosary at a public event, which represent - within the coordinates of popular religiosity, which cannot be dismissed with a shrug of the shoulders - the will to refer to these principles.

Marco Ventura would probably describe these initiatives as shows intended for the "credulous", or those who exploit religious experience in history and use it to control the present³⁸: but the credulous/believer dichotomy, in a secular state that is not legitimated to make judgments on how each associate lives (and uses) their relationship with the sacred, fails to defuse the political role of devotion. In any case, it is necessary to be vigilant.

There is always the risk - the writings "Juden" on the walls of Italian cities, the insults to Senator Segre, the violent attacks of a racist nature against public and non-public figures are here as a reminder - that the sovereignty of the twenty-first century may become - in Orwell's words - "the habit of assuming that human beings can be classified as insects and that entire blocks of millions or tens of millions of people can be safely labelled as 'good' or 'bad'", letting religion operate as a criterion for defining this classification. The reference to the structural value of a shared morality in a patriotic sense, in which the institutional element at the confessional level is much less important than the spiritual one felt at the popular level, risks being confused with (and degrading into) a new hostile nationalism, in which - exactly as an inscription that appeared a few days ago on the walls of Bologna shows - religious minorities are identified as "enemies of the nation": a new friend/enemy dichotomy that is ontologically contrary to the constitutional dictate: a dichotomy of which no one, except the neo-fascists, feels the need.

³⁸ M. VENTURA, *Creduli e credenti*, Torino, 2014.