



TOWARDS OR AGAINST GROUP COHESION AND STATE UNITY. THE RELATIONSHIP BETWEEN CHURCH AND STATE IN THE ITALIAN PENINSULA

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ABSTRACT: This article examines the relationship between Church and State in the Italian peninsula, focusing on some landmark decrees, statutes and treaties, and highlighting their role in promoting or vice-versa hindering group cohesion and State unity.

KEY WORDS: Theology, Religion, Aristote, Plato, Christian Wolff, Hugo Grotius, Leo Strauss, Eric Voegelin.

RESUMEN: El artículo hace una presentación de la evolución de las relaciones entre la Iglesia y el Estado en la península italiana, centrando su atención en decretos, estatutos y tratados, a la vez que la autora se apercibe de los contrastes entre la Iglesia católica y la naciente monarquía italiana, que consolidó la unidad del reino de Italia, y el particular anticlericalismo italiano de la segunda mitad del siglo XIX y primeros cuatro decenios del siglo XX.

PALABRAS CLAVE: Teología, Teología política, Religión, Aristóteles, Platón, Christian Wolff, Hugo Grotius, Leo Strauss, Eric Voegelin.

1. *Churches as promoters of group cohesion*

Group cohesion is the sum of all the factors causing members of a group to stay in the group or be attracted to the group being in unity while working towards a goal. You can think of group cohesion as the social glue that binds a group together.

Some researchers claim that group cohesion results from a deep sense of "we-ness," or belonging to a group as a whole¹. By becoming enthusiastically involved in the efforts of the group and by recognizing the similarities that exist among group members, more cohesion is formed. Furthermore, group pride creates a sense of community that strengthens the bonds of unity that link group members to one another.

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¹ K. A. Bollen and R. H. Hoyle, "Perceived cohesion: a conceptual and empirical examination", *Social Forces*, 69, 2 (1990), p. 479-504; R. A. Guzzo, "At the intersection of team effectiveness and decision making", in R. A. Guzzo and E. Salas, (eds.), *Team Effectiveness and Decision Making in Organizations*, San Francisco: Jossey-Bass, 1995, p. 1-8.

Other scholars highlight that cohesion comes from group members' commitment to work together to complete their shared tasks and accomplish their collective goals². Members of task-oriented groups typically exhibit great interdependence and often possess feelings of responsibility for the group's outcomes. The bonds of unity that develop from members' concerted effort to achieve their common goals are considered indicative of group cohesion.

Wilcox, Jelen and Leege claim that group consciousness includes different factors, which can be classified as follows: consideration of the group as part of one's identity, dissatisfaction with the level of recognition and power the group has, condemn of the system for not accrediting the group, and tendency towards aggregate action³. According to these authors, the group's cohesiveness goes hand in hand with its weakness: the less visible and the lighter leverage it has, the more attached and dedicated to the cause its members will be: their effort will need to be stronger in order to obtain attention from the society.

How are these issues related to the Church? For centuries it was usual that a more or less large group of people, who spontaneously felt a sense of common identity and purpose, gathered around a church. A church was indeed not only a place of worship, but served also as a social center: it was the site of meetings, and, above all in the nineteenth and twentieth century, the umbrella organization for a myriad of social and purposive clubs and organizations⁴.

Therefore, it can be argued that religious movements are organizations which serve the community within a specific territory, and have a religious purpose, but carry forward also requests which do not pertain exclusively to the spiritual realm.

Yet translating vague aspirations into a workable program is indeed already a political plan, which may, or may not, correspond with the civil authority's goals. Therefore, the convergence or vice-versa divergence between the religious movement's and state's goals gives origin to different kind of relationships between Church and state, whose traces can be found in decrees, laws and statutes, constitutions and treatises of constitutional rank.

2. *The Roman Empire in the third century AD*

Rome, once a small city in Latium, showed in the course of some centuries a remarkable growth, not only in its city's territory, but also in the Empire it acquired. Although the question can be raised, whether the Roman Empire was actually a unity, taking into consideration that it consisted of a diversified amalgam of peoples, it was doubtless a unified state. The ability of the elites was to unite various peoples under its rule creating a strong unity, which was political as well as cultural, and depended not only on military control from the center, but also on administrative and cultural unity. In the third century there

² D. Yukelson, R. Weinberg & A. Jackson, A multi-dimensional group cohesion instrument for intercollegiate basketball teams, *Journal of Sport Psychology*, 6 (1984), p. 103-117.

³ C. Wilcox, T. G. Jelen, y D. C. Leege, Rediscovering the religious factor in American politics, in Wilcox, Jelen, Leege, *Religious group identifications: Toward a cognitive theory of religious mobilization*, Armonk, New York, Sharpe, 1993, p. 72-99, 72.

⁴ R. C. Ostergren, *A community transplanted: the trans-Atlantic experience of a Swedish immigrant settlement in the Upper Middle West, 1835-1915*, London: The University of Wisconsin Press, 1988, p. 211.

was a specific roman culture, common to all the territories of the empire, which was based on a unique currency, after the local ones ceased their function in 260⁵, the use of Latin as the official administrative language⁶, the cessation of effectiveness of local laws after 280⁷, a similar urban outlay with fora, bathhouses, amphitheaters, and the sharing, since the Diocletian era, of a common *paideia* among the members of the empire's elites⁸. The subjected peoples accepted the Roman supremacy and in turn Rome encouraged their sense of belonging, granting the Roman citizenship (since 212 AD), and career opportunities also to outsiders, in this way fostering the political unity⁹.

Therefore, the strong belief in the unity of the empire was based on institutions which existed and were in force in the entire empire¹⁰.

Yet Christianity and its practitioners, who created sizeable communities in the Empire's urban populations during the third century¹¹, remained closed in their own circles, shying away from the public sphere¹². For this reason, they were suspected to be members of a divergent sect, which could be potentially disruptive of law and order, and charged to be corrosive to the traditionally cohesive Roman society¹³: as a consequence, they were perceived as factors of fragmentation of both, the social tissue and the empire¹⁴.

This originated Decius' edict on sacrifices (250 AD), which ordered the inhabitants of the Roman Empire to sacrifice to the ancestral gods, taste sacrificial flesh, and take an oath to the effect that they had always sacrificed¹⁵: those who refused were exiled, lost property, or put to death¹⁶. After Decius's edict, other persecution edicts¹⁷ reversed the traditional tolerance towards foreign cults which since then had been characteristic of the Roman society¹⁸.

⁵ H. Inglebert, « Les discours de l'unité romaine au quatrième siècle », in R. Dijkstra, S. van Poppel and D. Slootjes, *East and West in the Roman Empire of the Fourth Century*, Leiden – Boston: Brill, 2015, p. 9-25, 16.

⁶ J. W. Drijvers, *The divisio regni of 364: The End of Unity?*, in Dijkstra, van Poppel and Slootjes, *East and West...*, p. 82-96, 82-83.

⁷ Inglebert, *Les discours...*, p. 16.

⁸ Drijvers, *The divisio...*, p. 83.

⁹ G. Woolf, *Rome. An Empire's Story*, Oxford: Oxford University Press, 2012, p. 218-230.

¹⁰ R. Dijkstra, S. van Poppel, and D. Slootjes, Introduction, in Dijkstra, van Poppel and Slootjes, *East and West...*, 2015, p. 1-6, 3.

¹¹ G. Nathan, Trajan Decius, http://www.roman-emperors.org/decius.htm#N_25_ (accessed on 12.06.2016).

¹² R. MacMullen, *Christianizing the Roman Empire*, New Haven: Yale University Press, 1984, p. 35.

¹³ L. F. Janssen, Superstition and the Persecution of the Christians, *Vigiliae Christianae*, vol. 33 n. 2 (1979), p. 138.

¹⁴ Inglebert, *Les discours...*, p. 19.

¹⁵ P. J. Leithart, *Defending Constantine: The Twilight of an Empire and the Dawn of Christendom*, Downers Grove: InterVarsity Press, 2010, p. 35.

¹⁶ J. B. Rives, The Decree of Decius and the Religion of Empire, *The Journal of Roman Studies*, 89 (1999), p. 135-154, 135-137.

¹⁷ P. Halsall, *Diocletian: Edicts Against The Christians*, <http://legacy.fordham.edu/halsall/source/persec1.asp> (accessed on 12.06.2016).

¹⁸ S. Fletcher, Temples, Coins, and Persecution: Why the Pagans Persecuted the Early Christians, *Studia Antiqua*, 6, n. 1 (2008), p. 115-118.

However, in the first years of the fourth century, Christianity ceased to be the religion of a persecuted minority and became at first a tolerated religion, and finally the official imperial religion¹⁹.

Constantine, who in 312 AD defeated the superior forces of his rival Maxentius at the battle of Milvian Bridge, soon after took over the role of patron of the Christian faith²⁰. Under his rule, an extraordinary number of basilicas were built, and the Church received great financial support: it was given back the property confiscated during the Great Persecution of Diocletian²¹, was endowed with other land and wealth, and gained the right to inherit property. Clergy were relieved from paying taxes²², and all the Christians were exempted from paying the building of the new city of Constantinople²³.

The rulers of Church and Empire recognized that between these institutions there could be a cooperation based on shared principles and values: Church and State ceased fighting among themselves, and vice-versa supported one another, giving inhabitants the opportunity to enjoy a period of peace and prosperity, and securing in this manner the unity of the State²⁴.

3. *Italy between the nineteenth and the twentieth centuries*

The reason why there is such a large temporal gap between the previous subchapter, centering on the age of Constantine the Great, and the present one, focused on the nineteenth and twentieth centuries, is that, following the fall of the Roman Empire, there has been no unitary state in the Italian peninsula until 1861.

In 1848 revolutionary insurrections began in France, and immediately spread to most of Europe and parts of Latin America, with over fifty countries being affected. Being concerned at the riots Charles Albert of Savoy, king of Piedmont-Sardinia conceded a constitution in March of the same year. The Albertine Statute remained in force, with changes, until 1948.

Some articles are of a special interest concerning the relationship between Church and state. Art. 1 granted “freedom of religion for all existing forms of worship, in conformity with the law”, but established Roman Catholicism as the sole state religion; Art. 28 authorized Bishops to be the sole authority to give permission to print bibles, catechisms, liturgical and prayer books; Art. 33 established that Senators were appointed by the King for life, being chosen among different categories: the first category mentioned was that of Archbishops and Bishops of the State.

¹⁹ S.I.D. Cohen, *Legitimization Under Constantine*, <http://www.pbs.org/wgbh/pages/frontline/shows/religion/why/legitimization.html> (accessed on 12.06.2016).

²⁰ J. Rist, *Die Synode von Serdika 343: Das Scheitern eines ökumenischen Konzils und seine Folgen für die Einheit der Reichskirche*, in Dijkstra, van Poppel and Sloopjes, *East and West...*, 2015, p. 63-81, 63.

²¹ R. Gerberding and J. H. Moran Cruz, *Medieval Worlds*, New York: Houghton Mifflin Company, 2004, p. 55-56.

²² J. Christenson, *The Battle of Milvian Bridge and the history of the book*, <http://library.missouri.edu/news/special-collections/the-battle-of-milvian-bridge-and-the-history-of-the-book> (accessed on 12.06.2016).

²³ MacMullen, *Christianizing...*, p. 49.

²⁴ G. Ruhbach, „Die politische Theologie Eusebs von Caesarea“, in Id., *Die Kirche angesichts der konstantinischen Wende*, Wege der Forschung, 306, Darmstadt: Wissenschaftliche Buchgesellschaft, 1976, Seiten 236–258.

These Articles highlight that at the end of the 1840s the House of Savoy tended to keep a good relationship with the Church, granting freedom of religion to all existing forms of worship, and a leading position to Catholicism and its most eminent personalities.

However, the international political situation changed a few years later: the House of Savoy aimed to establish a united kingdom encompassing the entire Italian Peninsula and pursued this goal by means of diplomacy and military subjugation.

After the annexation of Lombardy and many little Duchies in central Italy during the period 1859-1860, the Kingdom of Sardinia set its sights on the Kingdom of the Two Sicilies, which comprised southern Italy and Sicily. A joint attack by the volunteers, led by Giuseppe Garibaldi, and the Piedmontese-Sardinian army, defeated the Bourbon troops, and the Kingdom of the two Sicilies collapsed. In the meantime, the Kingdom of Sardinia invaded the Papal States conquering Central Italy, with the exception of Latium.

In 1866 Victor Emmanuel II of Savoy entered an alliance with the Kingdom of Prussia, which defeated the Confederation headed by the Austrian Empire: as a consequence, Venetia, formerly a constituent land of the Austrian Empire, was annexed by the Kingdom of Sardinia.

After the latter annexation, the sole obstacle to Italian unity remained Latium. Since 1867 the region, and in particular Rome, was defended by a French army sent by Napoleon III to help the papal troops against potential invaders. However, in July 1870 a dispute arose between France and the German Confederation guided by Prussia. At the beginning of August, Napoleon III discharged his defenders from Rome in order to protect their homeland, but on 1 September 1870, during the Battle of Sedan the French Emperor himself was captured by the Prussian troops. Victor Emmanuel of Savoy knew that Rome could not be defended by the sole papal armed forces; therefore, upon he received the news about the capture of the French Emperor, he proposed to Pope Pius IX a peaceful entry of the Piedmontese-Sardinian Army into Rome. The Pope refused; on 11 September 1870, Victor Emmanuel's Piedmontese-Sardinian battalions crossed the papal frontier and nine days later they entered Rome.

Pope Pius IX withdrew to the Vatican, declaring himself a prisoner of the Piedmontese monarchy.

On 13 May 1871 the Italian Parliament made an attempt to resolve the tensions between the Papacy and the newly born Italian state, issuing the Law on papal guarantees: the articles in first section establish the prerogatives of the Pontiff and of the Holy See, and those in the second section regulate the relations between Church and State²⁵.

Of great importance therein are Art. 4, establishing "The annual donation of 3,225,000 lira, in favor of the Holy See, is maintained. This dotation will be exempt from any kind of tax or charge, either governmental, municipal or provincial, and it shall never be reduced", Art. 14, stating "Any special restriction of the right of assemblage of members of the Catholic clergy is hereby annulled"; Art. 15, establishing "Bishops shall not be required to take oath of allegiance to the King", Art. 16., stating "The «*exequatur*» and the «*placet*» of

²⁵ Legge delle guarentigie, <http://www.sba.unifi.it/CMpro-v-p-566.html> (accessed on 30.04.2016).

the crown and any other form of government warrant for the publication and execution of acts emanating from ecclesiastical authorities are hereby abolished”, and Art. 18, declaring “Provisions will be made by a further enactment for the organization, the conservation and the administration of ecclesiastical property throughout the kingdom”²⁶.

The pope answered, two days later, with the encyclical *Ubi nos*, which repudiated the Law of Guarantees and called upon the powers to restore the Papal States²⁷. Of particular importance are recital 4, claiming “the Piedmont government has promoted certain empty immunities and privileges, commonly called “guarantees”, which should be compensation for stripping Us of Our civil rule; this they accomplished by a lengthy series of machinations and their unholy arms”, recital 5, which states “these many errors and blasphemies are plainly at variance with the Catholic faith and with the very foundations of natural law”, recital 6, claiming” Not only these so-called guarantees, but all other titles, honors, immunities, and privileges – that is whatever else can be named a «guarantee» -, cannot protect the due and free exercise of Our God-given power and cannot preserve the necessary liberty of the Church”, recital 5, declaring “We never can and never shall allow or accept those «guarantees» devised by the Piedmont Government, whatever their motive (...) For if the Roman Pontiff were subject to the sway of another ruler, but no longer possessed civil power, neither his position nor the acts of the Apostolic ministry would be exempt from the authority of the other ruler”, recital 8, claiming “Indeed, is not this concession of «guarantees» itself the clearest proof that laws are being imposed on Us?”, and above all recital 13, claiming “The rulers of the earth do not want the usurpation which We are suffering to be established and to thrive to the ruin of all authority and order. May God unite all rulers in agreement of mind and will. (...) May these rulers join in a common effort to have the rights of the Holy See restored”.

Research posited that maybe the pope feared that agreeing to a law issued by a parliamentary majority which could slip and slide, even his own spiritual authority could be made dependent upon party politics²⁸.

Pope Pius IX’s stubbornness paired with the Italian govern and Parliament’s intolerance. In 1875 the government applied to Rome the law on conscription to military service also to the clergy²⁹, and the law on compulsory civil marriage³⁰, even though the pope had said that civil marriage without the Church is nothing but adultery³¹.

In 1876 the bill of Clerical Abuses was passed in the Lower House: it proposed to impose heavy penalties for political pressure from the pulpit or in the confessional. If it had succeeded it would have caused an endless series of

²⁶ Ibidem.

²⁷ *Ubi nos*, <http://www.papalencyclicals.net/Pius09/p9ubinos.htm> (accessed on 04.08.2016).

²⁸ O. Chadwick, *A History of the Popes, 1830-1914*, Oxford: Oxford University Press, 2003, p. 230.

²⁹ Law 7 June 1875, L. Borsi, *Nazione, democrazia, stato*, Milano: Zanichelli e Arangio-Ruiz, 2009, p. 566.

³⁰ G. Sighele, *Della necessità di ordinare la precedenza del matrimonio civile al religioso e di statuire una sanzione penale al ministro del culto che contravvenisse*, Milano: Fratelli Rechiedei, 1873; A. C. Jemolo, *Chiesa e Stato in Italia dalla unificazione a Giovanni XXIII*, Torino: Giulio Einaudi editore s.p.a., 1965, p. 142-145.

³¹ Chadwick, *A History ...*, p. 233.

lawsuits against priests. Itself the Senate considered it a law against free speech, and voted against it³².

It was a very difficult period; many Italian were Catholics who needed to be reconciled to their regime, which was having a difficult enough time anyway, trying to make a unified country out of many different States. The divisions of Italy were deepened because government and Pope could never agree. The Parliament of Italy never won the affections of the Italian people, and this was partly because of the decree made by the Holy Penitentiary on 29 February 1868, sanctioning the motto “Non expedit – Neither elector nor elected”³³. It is very likely that the Holy See wanted Catholics to have nothing to do with electing anyone to the Italian Parliament, and so refuse it recognition³⁴.

The sanction remained in force, although with diminishing strength, until 1919, when pope Benedictus XV abrogated it, giving a positive evaluation of the improving relationship between the Holy See and the Italian Kingdom³⁵.

In 1926 the Holy See and the Italian Kingdom began negotiations, aimed at overcoming the previous impasse. An agreement was eventually reached after three years of consultations, including a clause granting to the Holy See full sovereignty over Vatican City, a small enclave within the city of Rome. In exchange, the Pope would maintain neutrality in international politics, and would only mediate in existing conflicts if encouraged by all the parties. On its part, Italy confirmed that Roman Catholicism would continue to be the state religion, and offered to pay a sum to the Holy See in compensation for the territories and buildings which previously belonged to the Papal States and were taken by Italy during the 1861 campaign.

The agreement reached in 1929, with the signing of the Lateran Treaty, constituted a substantial instrument of propaganda for Mussolini. An example of his reconciliatory actions towards the Papacy is the construction of the Via della Conciliazione. This important road connecting Vatican City to the heart of Rome was begun in 1936, symbolizing the reconciliation between state and Church, and their unity of intent.

The Lateran Treaty was then incorporated in the 1947 Constitution of Italy. In 1984, in the light of the political and social changes occurred in Italy over almost four decades, and the developments promoted by the Church since the Second Vatican Council³⁶, the Holy See and the Italian Republic agreed on some modifications to the Lateran Concordat.

First and foremost, in the new Concordat Catholicism has stopped being the state religion. Marriages celebrated in church are still valid under civil law, but religious divorces need to be confirmed by a decision of a Civil Court of Appeal.

³² Atti Parlamentari, Camera dei Deputati, Tornata del 19 gennaio 1877, <http://storia.camera.it/regno/lavori/leg13/sed030.pdf> (accessed on 25.07.2016).

³³ G. Margotti, ‘Né eletti né elettori’, *L’Armonia*, XIV, 7 gennaio 1861; *La Civiltà Cattolica*, XVI, II, 1075, 26.03.1895; S. Marotta, *Cristiani d’Italia. Chiese, società, stato, 1861-2011*, Catanzaro: Treccani, 2011, p. 215.

³⁴ Chadwick, *A History ...*, p. 235.

³⁵ G. Sale, *Popolari, chierici e camerati*, vol. I, Milano: Editoriale Jaca Book Spa, 2005, p. 64.

³⁶ Agreement between the Holy See and the Italian Republic. Modifications to the Lateran Concordat.

Moreover, the Holy See cannot register marriages when the requirements set by the Italian Law are lacking: minimum age, relationship, mental health, and absence of a previous marriage with another partner³⁷.

One more issue is particularly relevant when comparing the two versions of the Treaty. While in the earlier version, the teaching of Catholicism was considered as the basis of public education, in the 1984 version the subject becomes non-compulsory, although being still taught in public schools. The authority to make the decision about children's attendance of religion classes remains with their parents³⁸.

Education institutions such as Universities, academies, and colleges involved in training experts in religious subjects, respond only to the Church. Moreover, academic titles conferred by the Church are recognized by the Italian State. It can therefore be deduced that the Church maintains high authority in the public education field³⁹.

Additionally, further amendments regard the city of Rome, which had been awarded the title of "Holy City" by the authorities in the Fascist era. This title came along with the obligation of removing from Rome anything that would contradict its sacredness. The Modifications 1984, in a lighter disposition, limits its wording to acknowledge the "special significance that Rome possesses for believing Catholics"⁴⁰.

4. *Fundamental issues*

Specific articles in constitutions, treaties and statutes concern subjects which can be considered as core issues of the relationship between State and Church. Among them are the following: a) has religion a specific consideration in the State structure? b) does the State consider religious principles as part of the national cultural traditions, and therefore does it include them in the courses taught in public schools? c) are marriage and the family founded on it specifically safeguarded by the State; d) does the State assign special funds to the Church and its activities either in a direct or indirect way?

Moreover, an invocation to God can be included at the beginning of a constitution or treaty, confirming the importance given to spiritual values as a factor of national unity, valid for both, believers and non-believers.⁴¹

a) *Nominatio or invocatio Dei*

Many constitutions make reference to God, usually in the form of a *nominatio dei* (naming of God) or even an *invocatio dei* (call on God): in the

³⁷ Article 8, Agreement between the Holy See and the Italian Republic Modifications to the Lateran Concordat, and Supplementary Protocol of 18 February 1984.

³⁸ Article 9, Agreement between the Holy See and the Italian Republic Modifications to the Lateran Concordat, and Supplementary Protocol of 18 February 1984.

³⁹ Article 10, Agreement between the Holy See and the Italian Republic Modifications to the Lateran Concordat, and Supplementary Protocol of 18 February 1984.

⁴⁰ Article 2, Agreement between the Holy See and the Italian Republic Modifications to the Lateran Concordat, and Supplementary Protocol of 18 February 1984.

⁴¹ An example can be found in the Polish Constitution of 1997, that states in its Preamble: "We, the Polish Nation - all citizens of the Republic, Both those who believe in God as the source of truth, justice, good and beauty, As well as those not sharing such faith but respecting those universal values as arising from other sources", see <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm> (accessed on 04.08.2016).

former, God is conceived as the source of legal and ethical values⁴², in the latter God is cited as the fundament binding together the legitimization of state power, and Christian faith⁴³.

Although a very invocatio Dei might not be considered an appropriate element of contemporary constitutions, the commitment to universal human rights has attained a quasi-religious status in many preambles, showing that although secular, constitutions are not free from religious reminiscences⁴⁴.

It may be argued that the nominatio Dei reflects the strong position of established churches in some country.

Examples thereof can be found in the Albertine Statute, signed in 1848, which contains the invocatio Dei "Carlo Alberto, by the Grace of God, king of Sardinia, of Cyprus, and of Jerusalem etc., etc., etc."⁴⁵; and in the Lateran Pacts, signed by the Holy See and Italy in 1929, which contain the nominatio Dei "In the name of the Most Holy Trinity"⁴⁶,

b) Pre-eminence of one religion

The pre-eminence of a specific religion in a state can be due to different types of norms: a) norms stating that a specific religion is state religion; b) norms stating that high officials and the head of state need to have certain religious qualifications⁴⁷.

In Italy only the first type of norms has been effective, being included in the Lateran Pacts 1929. The 1984 Accord modifying the Lateran Concordat stated the cessation of validity of this provision⁴⁸.

c) Cultural traditions and education

Religion is often considered as having an important role in cultural traditions and education. In effect the Lateran Pacts included a number of articles concerning these issues⁴⁹, and so does also the Modifications 1984⁵⁰.

⁴² P. Häberle, „Präambeln im Text und Kontext von Verfassungen“, in *Anfechtung und Bewährung. Festschrift Johannes Broerman*, Berlin: Duncker & Humblot, 1982, Seiten 211-249, at 214.

⁴³ W. Weinholt, „Gott in der Verfassung. Studie zum Gottesbezug“, in *Präambeltexten der deutschen Verfassungstexte des Grundgesetzes und der Länderverfassungen seit 1945*. Frankfurt am Main: Europäischer Verlag der Wissenschaften, 2001, S. 185.

⁴⁴ K. Schmid, In the Name of God? The Problem of Religious or Non-religious Preambles of State Constitutions in Post-atheistic Contexts, *Occasional Papers on Religion in Eastern Europe*, vol. 24, n. 1 (2004), p. 19-32, at 28.

⁴⁵ Statuto Albertino.

⁴⁶ Lateran Pacts.

⁴⁷ An example can be found in the Constitution of Norway, which states, at Article 4, "the King shall at all times profess the Evangelical-Lutheran religion", <https://www.stortinget.no/en/Grunnlovsjubileet/In-English/The-Constitution---Complete-text> (accessed on 04.08.2016).

⁴⁸ Supplementary Protocol to the Accord modifying the Lateran Concordat Signed 18 February 1984. With Reference to Article 1 The principle, originally stated in Lateran treaties, that the Catholic religion is the sole religion of the Italian State is no longer in force, <http://www.concordatwatch.eu/topic-39221.834> (accessed on 04.08.2016).

⁴⁹ Art. 36. Italy, considering the teaching of Christian doctrine according to the form received by Catholic tradition as the foundation and the crown of public instruction, agrees that religious instruction imparted in the public elementary schools shall have a further development in the secondary schools according to a programme to be established by an accord between the Holy See and the State.

Such teaching shall be given by means of masters and professors, priests and religious approved by the Ecclesiastical Authority,

d) Marriage and family

Art. 29 of the Italian Constitution, recognizes the rights of “the family as a natural society founded on marriage”. The phrasing of this article was the result of a compromise between the left and the right wing: the latter would have included in the Constitution the principle of marriage indissolubility. However, the latter has not been mentioned in the Concordat 1929, which only stated that “The Italian State, wishing to restore to the institution of matrimony, which is the foundation of the family, that dignity which is conformable with the Catholic traditions of its people, recognizes the civil effects of the Sacrament of matrimony regulated by Canon Law”⁵¹. In the 1984 Modifications, the Holy See recognized that canonic marriages cannot be registered in some cases⁵², but took the opportunity “to reaffirm the immutable value of Catholic doctrine on marriage and the concern of the Church for the dignity and values of the family as a fundamental element of society”⁵³.

e) Financing

For the said religious teaching there shall only be used in the public schools the text-books approved by the Ecclesiastical Authority.

Art. 37. The director of the State Association of physical culture for pre-military instruction, of the Avanguardisti and the Balilla, in order to render possible the religious instruction of the youth entrusted to them, shall dispose the hours in such a way as shall not impede on Sundays and days of precept the fulfilment of their religious duties.

The same applies to the directors of public schools for gatherings of their pupils on the said feast days.

Art. 39. The Universities, the greater and lesser Seminaries, diocesan, inter-diocesan or regional, the academies, the colleges and other Catholic Institutes for Ecclesiastical formation and culture shall continue to depend solely from the Holy See without any interference on the part of the scholastic authority of the Kingdom.

Lateran Pacts, <http://www.vaticanstate.va/content/dam/vaticanstate/documenti/leggi-e-decreti/Normative-Penali-e-Amministrative/LateranTreaty.pdf>, (accessed on 04.08.2016).

⁵⁰ Art. 9

1. The Italian Republic, in conformity with the principle of the freedom for schools and teaching and within the terms set down in its Constitution, guarantees to the Catholic Church the right freely to establish schools of every order, grade, and educational institutions.

To such schools is assured absolute parity and freedom, and the same also to its pupils, who are to receive the same academic equivalence as those in State schools and other territorial bodies, and also insofar as State examinations are concerned.

2. The Italian Republic, recognising the value of religious culture and having in mind that the principles of Catholicism are a part of the historical heritage of the Italian people, shall continue to assure, within the framework of the purpose of schools, the teaching of the Catholic religion in state schools of every order and grade, excepting universities.

Article 10 [Clerical /theological education]

1. Universities, seminaries, academies, colleges and other institutions for ecclesiastic and religious people, or for those training in ecclesiastical disciplines, established according to Canon Law, shall continue to submit themselves exclusively to ecclesiastic authority.

Article 12 [Cultural property]

1. The Holy See and the Italian Republic, in their respective roles, shall collaborate for the protection of their historical and artistic heritage.

Agreement between the Holy See and the Italian Republic Modifications to the Lateran Concordat, and Supplementary Protocol of 18 February 1984.

⁵¹ Lateran Pacts, <http://www.vaticanstate.va/content/dam/vaticanstate/documenti/leggi-e-decreti/Normative-Penali-e-Amministrative/LateranTreaty.pdf>, (accessed on 04.08.2016).

⁵² Accord modifying the Lateran Concordat signed 18 February 1984. Article 8.

⁵³ Ibidem.

Rules concerning financing of the Catholic Church have already been included in the Lateran Pacts 1929⁵⁴ and in the Modifications 1984⁵⁵. Moreover,

⁵⁴ Article 5. For the purpose of the execution of the provisions of the preceding Article before the present Treaty comes into force, the Italian Government shall see to it that the territory forming the Vatican City shall remain free from any charge and from possible occupants. The Holy See shall arrange to enclose the access thereto, enclosing such parts thereof as remain open, except St. Peter's Square.

It is furthermore agreed that, in respect of the buildings there existing and belonging to religious institutions or bodies, the Holy See shall settle relations with the latter direct, the Italian Government having no part in such arrangements.

Article 6. Italy shall provide, by means of suitable agreements entered into with the interested parties, that an adequate water supply be fully assured to the Vatican City. Italy shall furthermore provide for connection with the State railways by constructing a railway station within the Vatican City on the spot shown on the annexed map, and by permitting the circulation of railway carriages belonging to the Vatican on the Italian railways. It shall further provide for direct connection with other States by means of telegraph, telephone, wireless, broadcasting, and postal services in the Vatican City. It shall equally also provide for the coordination of all other public services.

All expenses connected with the arrangements above mentioned shall be defrayed by the Italian State, within the period of one year from the entry into force of the present Treaty.

The Holy See shall, at its own expense, arrange the existing means of access to the Vatican, and those others which it may consider it necessary to make in the future.

Agreements shall be subsequently concluded between the Holy See and Italy concerning the circulation, on and over Italian territory, of land vehicles and aircraft belonging to the Vatican City.

Article 11. All central bodies of the Catholic Church shall be exempt from any interference on the part of the Italian State (save and except as provided by Italian law in regard to the acquisition of property made by *corpi morali*, [recognized public bodies] and with regard to the conversion of real estate.)

Article 14. Italy recognizes the full ownership by the Holy See of the Papal Palace of Castel Gandolfo, together with all endowments, appurtenances, and dependencies thereof, which are now already in the possession of the Holy See, and Italy also undertakes to hand over, within six months after the coming into force of the present Treaty, the Villa Barberini in Castel Gandolfo, together with all endowments, appurtenances, and dependencies thereof.

In order to round off the property situated on the northern side of the Janiculum Hill, belonging to the Sacred Congregation of Propaganda Fide and to other ecclesiastical institutions, which property faces the Vatican Palaces, the State undertakes to transfer to the Holy See or other bodies appointed by it for such purpose, all real estate belonging to the State or to third parties existing in that area. The properties belonging to the said Congregation and to other institutions and those to be transferred being marked on the annexed map.

Finally, Italy shall transfer to the Holy See, as its full and absolute property, the Convent buildings in Rome attached to the Basilica of the Twelve Holy Apostles and to the churches of San Andrea della Valle and S. Carlo ai Catinari, with all annexes and dependencies thereof, and shall hand them over within one year after the entry into force of the present Treaty, free of all occupants.

Lateran Pacts, <http://www.vaticanstate.va/content/dam/vaticanstate/documenti/leggi-e-decreti/Normative-Penali-e-Amministrative/LateranTreaty.pdf>, (accessed on 04.08.2016).

⁵⁵ Article 5. Buildings open for worship cannot be requisitioned, occupied, expropriated or demolished save in exceptional circumstances and by prior agreement with the relevant ecclesiastical authorities.

Except in emergencies, the police force shall not enter places of worship in the pursuance of their duties without prior notification to the ecclesiastical authorities.

The civil authorities will take account of the religious needs of the population as advised by the relevant ecclesiastical authorities with regard to the construction of new places of Catholic worship and the pertinent parish structures.

Article 7. The Italian Republic, in accordance with the principle noted in Article 20 of the Constitution, reaffirms that the ecclesiastical character and the religious end and the purpose of worship of an association or institution cannot be subjected to special legislative limitations,

specific statutes established the “*congrua sustentatio*”, a living aimed at supplying the necessities and the comforts of life to ecclesiastics⁵⁶; these provisions were abolished in 1986. In 1985 a new statute established that Italian taxpayers can allocate the 0.8‰ from their annual income tax to one of the religions acknowledged by the State⁵⁷; in doing so, they can contribute to cultural and social initiatives promoted by the Church at both national and local level, and provide for the sustenance of the clergymen.

5. Conclusions

Group cohesion is a fundamental issue for a State: the State can promote group cohesion creating a sense of community, and encouraging the group members’ commitment to work together to complete their shared tasks and accomplish their collective goals.

This has been pursued, in the course of the centuries, also recognizing that a State and a church placed on the same territory may share some important goals, for instance facilitating social cooperation, sustaining local initiatives, and strengthening local communities.

In the Italian peninsula, a positive relationship between State and church has been promoted, in the fourth century, by means of some decrees by the emperor Constantine the Great, and more recently, in the twentieth century, by

neither to special taxes with regard to its constitution, legal competency or any other form of activity.

The legal status previously conferred upon ecclesiastical bodies shall stand and the Italian Republic, at the request of the ecclesiastical authorities or with its consent, shall continue to recognise the legal status of ecclesiastical bodies whose See is in Italy, who have been set up and approved according to the norms of Canon Law and have a religious or devotional purpose. The same procedure shall be followed for the recognition of civil effects for any substantial change to the same bodies.

With regard to taxation, ecclesiastical bodies having a religious or devotional purpose, as well as activities directed to that same goal, are to enjoy the same benefits as those which have a charitable or educational purpose. Activities which differ from those of a religious or devotional nature, developed by ecclesiastical bodies, are subject, in respect of the structure and goal of such bodies, to State taxation laws in the same manner as is prescribed for the aforementioned bodies.

Buildings open for worship, publication of acts, the posting of notices inside and at the entrance of places of worship or ecclesiastical buildings, and the collections made in the aforesaid buildings, shall continue to be subjected to existing legislation.

The administration of property belonging to ecclesiastical bodies is subject to the controls as laid down in Canon Law. However, the acquisitions of these bodies are also subject to controls laid down in Italian law on acquisitions made by legal persons.

Upon signing this present Agreement, the Parties shall institute a joint Commission to draw up norms, which will be subject to their approval, for the regulation of all matters of ecclesiastical bodies and their properties and for the revision of financial obligations of the Italian State and of the intervention of the latter into the management of estates owned by ecclesiastical bodies.

As a temporary measure and until new regulations come into force, Article 17, paragraph 3, and Articles 18, 27, 29, and 30 of the previous text of the Concordat remain in force.

Accord modifying the Lateran Concordat Signed 18 February 1984. Article 8, <http://www.concordatwatch.eu/topic-39221.834> (accessed on 04.08.2016).

⁵⁶ Rev. S. B. Smith, (1888), *Elements of ecclesiastical law*, https://archive.org/stream/elements-ecclesia03smituoft/elementsecclesia03smituoft_djvu.txt (accessed on 27.07.2016).

⁵⁷ Statute 20 May 1985, n. 222, Disposizioni sugli enti e beni ecclesiastici in Italia e per il sostentamento del clero cattolico in servizio nelle diocesi. <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1985-05-20;222!vig=> (accessed on 27.07.2016).

means of the Concordat (1929) and its Modifications (1984). Cooperation, instead of conflict or competition, brought benefits either to the Church or to the State, but increased their interdependence. The latter caused, in the course of time, objectionable mixtures of politics and religion, which could not be considered appropriate nowadays.

On the contrary, the Modifications 1984, basing on the principles enshrined in the 1947 Constitution of Italy, conceive Church and State as notionally separate, and therefore parallel and independent of one another. However, the current regulations also establish that, in so far as State and Church are based on common principles and values, they can cooperate to accomplish shared goals: in this way they may still have an informal mutual influence.

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