



D+ReSoM

Diritto Religione Società Multiculturali
Law Religion Multicultural Societies

Право Религия Мультикультурные Общества

انون والدين في المجتمعات متعددة الثقافات
多元化社会中的法与宗教

LAW, RELIGION AND COVID-19 EMERGENCY

EDITED BY
PIERLUIGI CONSORTI

D+
papers 1

DiReSoM Papers

1

LAW, RELIGION AND COVID-19 EMERGENCY

edited by

Pierluigi Consorti

DiReSoM (Diritto e Religione nelle Società Multiculturali – Law and Religion in Multicultural Societies) is a research group created in 2017 by Italian Scholars in Law and Religion.
www.diresom.net diresom.adec@gmail.com

Scientific Board:

Pierluigi Consorti (cordinator), University of Pisa
Federica Botti, Alma mater, University of Bologna
Rossella Bottoni, University of Trento
Cristina Dalla Villa, University of Teramo
Mario Ferrante, University of Palermo
Fabio Franceschi, La Sapienza, University of Rome
Luigi Mariano Guzzo, University Magna Graecia of Catanzaro
Maria Cristina Ivaldi, University of Campania “Luigi Vanvitelli”
Chiara Lapi, University of Pisa
Maria Luisa Lo Giacco, University ‘Aldo Moro’ of Bari
Adelaide Madera, University of Messina
Enrica Martinelli, University of Ferrara
Francesca Oliosi, University of Trento
Daniela Tarantino, University of Genova
Alessandro Tira, University of Bergamo

DiReSoM Papers focuses on the interdisciplinary study of Religion and Law in Multicultural Societies. All papers have been submitted to a peer-review process.

Editorial Board: Simone Baldetti, Fabio Balsamo, Luigi Mariano Guzzo, Alessandro Tira.

DiReSoM Papers 1 - Law, Religion and Covid-19 Emergency, edited by Pierluigi Consorti, may 2020

Law, Religion and Covid-19 Emergency / [edited by Pierluigi Consorti] / Pisa: DiReSoM, 2020 / pp. 286 (DiReSoM Papers: 1)

323.44

Civil and political rights; Freedom of conscience and religion; Rights of assembly and association; Pandemic and epidemic

This ebook is regulated by *Creative Commons Licence*.

It can be freely shared, but it cannot be commercialized or changed.



First edition: May 2020

©Pierluigi Consorti, DiReSoM, Pisa, 2020

ISBN: 979-12-200-6404-0

INDEX

PIERLUIGI CONSORTI, *Law, Religion and Covid-19 Emergency. Introduction* p. 7

LAW AND RELIGION

PIERLUIGI CONSORTI, *Religion and virus* p. 15

LUIGI MARIANO GUZZO, *Law and Religion during (and after) Covid-19 Emergency: the Law is Made for Man not Man for Law* p. 19

ANTONINO MANTINEO, *I have a dream: restarting, but going where?* p. 29

STATE LAW

MARIA LUISA LO GIACCO, *In Italy the Freedom of Worship is in Quarantine, too* p. 37

FABIO BALSAMO, *The loyal collaboration between State and religions at the testing bench of the Covid-19 pandemic. A perspective from Italy* p. 47

GABRIELE FATTORI, *Religious freedom at the time of coronavirus* p. 57

DOMENICO BILOTTI, *Punishment, virus and religions* p. 65

VALERIO D'ALÒ, *Covid-19: limitations to public worship in Italy, Spain and Poland* p. 73

ENRICA MARTINELLI, *The Greek Orthodox Church at the time of the SARS-CoV-2 epidemic* p. 81

ENRICA MARTINELLI, *Orthodox Easter Covid-19: Israel allows the opening of the Holy Sepulcher to receive the "Light of Resurrection"* p. 91

- GIUSEPPINA SCALA, *Freedom of the Profession versus the Health Emergency: The Physical and Spiritual Protection of the Lutheran Citizen* p. 97
- NIKOLA B. ŠARANOVIĆ, *Religion, law and Covid-19 emergency: a brief report from Montenegro* p. 105
- STEFANO PICCIAREDDA, *Religions, Africa and Covid-19* p. 109
- MASSIMO FAGGIOLI, *Pandemic and religious liberty in the USA: between privatization of the Church and neo-integralism* p. 119
- MUSTAFA YASAN, *The measures taken in the field of religion in turkey against the threat of pandemic Covid-19 virus* p. 125
- CATERINA GAGLIARDI, *Saudi Arabia's caution in times of health emergency* p. 129
- CHIARA LAPI, *The Saffron Wave Against Virus. The Hindu Nationalists and the Covid-19 Emergency* p. 137
- VASCO FRONZONI, *In Pakistan the mosques will remain open for Ramadhan but with restrictions* p. 141
- MASSIMO INTROVIGNE, *Lesson from the Shincheonji Case in South Korea: Monitoring Without Scapegoating* p. 145
- SIMONE BALDETTI, *First observations on law, religion and Covid19 in Japan. Between the "Confucian style" lockdown and religious response to pandemic* p. 151
- ANTONELLO DE OTO, *The Republic of San Marino and the practice of worship in the Covid-19 era: between history, common law and emergency decrees* p. 157
- PIERLUIGI CONSORTI, *Coronavirus emergency in the monastic autonomous republic of Mount Athos. Contagion without covid-19* p. 169
- MATTEO CARNÌ, *Vatican City State and Covid-19 emergency* p. 173

ANTONELLO DE OTO, *Andorra and Covid-19. Explanatory note* p. 187

RELIGIOUS LAW

LUIGI MARIANO GUZZO, *Hygiene of the Body and of the Spirit* p. 191

DANIELA TARANTINO, *“Non in pane solo vivet homo”. Catholics in front of Covid-19* p. 195

FRANCESCA OLIOSI, *“Mercy is what pleases me, not sacrifice”: liturgies, in pandemic, not rites* p. 209

DANIELA TARANTINO, *“I absolve you”. The priest medicus animarum at the time of the Covid-19* p. 213

STEFANO TESTA BAPPENHEIM, *Does the Covid-19 pandemic authorize the derogation from the canonical rule of absolution necessarily preceded by individual confession? (canon 961cic)* p. 221

MARIA D’ARIENZO, *Is the suspension of mass in public form legitimate?* p. 251

ENRICA MARTINELLI, *The Talmud teaches: “When pestilence is in the city, stay inside”. (Bavà Qammà 60)* p. 253

VASCO FRONZONI, *From social distance to Muslim solidarity proximity at the time of Covid-19* p. 261

POSITION PAPER

DIRESOM RESEARCH GROUP, *Proposal for a safe resumption of Religious Celebrations in Italy* p. 271

“MERCY IS WHAT PLEASES ME, NOT SACRIFICE”: LITURGIES, IN PANDEMIC, NOT RITES*

Francesca Oliosi

On Friday 27 March 2020 millions of people around the world attended the special moment of prayer with [Pope Francis](#). The apocalyptic images of Piazza San Pietro, empty and shiny from the rain, will go down in history as the symbol of the relationship between faith, religious freedom and the pandemic from Covid-19.

In the most important week of the entire liturgical year, the Church has celebrated the Easter Triduum for the first time without the presence of lay people. Physical absence, but virtual presence of people: from their homes, from hospice for the elderly, from hospitals all over the world, the *people of God* concelebrated the entire triduum, in new, unprecedented, contingent, but still valid ways.

It is not the defeat of the faith nor the “outgoing church”, nor an unbrave choice: exactly the opposite. If there is one thing that this emergency is clearly highlighting, it is the very essence of who is Mother to the *Christifideles*, the Church, and who is their guide and Pontifex, Pope Francis.

* Submitted: April 10^h 2020. Published: April 18th 2020. For ITA version [click here](#).

The health emergency highlights some aspects of the Church's legal order often left in the shadows or forgotten.

The first is the image of this man who alone filled the square symbol of Christianity (and usually full of faithful), reminding us that the essence of the Petrine ministry is to be a “bridge builder” (just *ponti-fex*) between God and the His people¹.

The second is the true nature of the Church. As postulated by the Vatican Council II², it is made up of a people on the move. The distinction between lay and ordained has lost its initial relevance to give way to a concept founding the entire codification of 1983: the *populo Dei*.

A universal people united by faith, God and participation in divine life through sacramental action, a people characterized by substantial equality but functional diversity.

The words of Vatican Council II are actual, almost prophetic: “In the Church there is diversity of ministry, but unity of mission”³.

Each *Christifideles* in his ministry (and in his vocation) can or, *rectius*, must contribute to achieve the third fundamental aspect of ecclesiology and which is emerging in its true essence of *suprema lex* (can. 1752): the *salus animarum* which, as the Code says, must always be the supreme law in the Church.

The aim of the salvation of souls gives all other laws a particular character of elasticity, becoming a guiding criterion which, unlike secular systems, allows to change the law to serve the soul and therefore also adapt to changing circumstances.

¹ Pope Francis is also *defensor urbis*, as remembers [Alessandro Ferrari](#).

² In particular the dogmatic Constitution *Lumen Gentium*.

³ Cfr. *Lumen Gentium* ns. 13, 32.

Examples of this particular elasticity are The [“In Covid Time II” Decree of the Congregation for Divine Worship](#) and the Discipline of the Sacraments and the [Decree of the Apostolic Penitentiary](#) on the granting of special indulgences to the believers in the current pandemic situation.

The first outlines the physiognomy (also liturgical and ritual) of Holy Week at the time of the pandemic, the second offers the possibility of obtaining plenary indulgence to the faithful coronavirus patients, as well as to health workers, family members and all those who in any capacity even with prayer, take care of it.

In a few days (the decree of the Penitentiary goes back to March 20; that of the Congregation for Worship at 23 and the Pope’s *Urbi et Orbi* blessing at 26) the Church has put first the health of the body and soul of the believers, reaffirming the importance of the internal forum and domestic celebrations, and sharing the celebrations in new ways (also in the multimedia sense of the term).

In this way, the Church has even exceeded the limits of traditional liturgical forms and administration of the sacraments, activating the extraordinary ones that allow it to carry out the work of sanctification (the *munus sanctificandi*) so as not to leave the faithful “alone and afraid in the storm”.

For the Catholic Church, Lent is excellence *tempus ieiunii et poenitentiae*, for this reason the extraordinary indulgence granted by the decree of the Apostolic Penitentiary to those who are in any measure involved in the Coronavirus emergency and extended by Pope Francis *toto corde et urbi et orbi* on 26th March takes on symbolic importance.

The time of the year devoted to repentance and forgiveness as a preparation for Easter remained unchanged despite the pandemic, thanks to the adoption of extraordinary forms: “collective absolution”, that is of the most faithful together, “without individual confession before”, authorized by the note of the Apostolic Penitentiary and consolidated with the decree *ex auctoritate Summi Pontificis*, which also granted the plenary indulgence.

All this confirms the main characteristic of this papacy, which with the extraordinary Jubilee of Mercy had already underlined a fundamental point of Christianity. Once again the Pope invokes the Mercy of God and continues to do it even now, even alone, in a deserted square like the world, which looks up in the storm. An *Urbi et Orbi* Mercy, which overcomes the rigor of the rite and goes straight to the heart of humanity.