

Civil Religion in Italy: a “Mission Impossible”?

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FIRST DRAFT (NOT TO BE QUOTED - PLEASE) !!!!!

§ 1 Premise - Italy within the General Framework

Before trying to talk about civil religion in Italy, I would like to state immediately what my feelings about this topic are and the guidelines I will be following here.

First of all, I think we should accept that we are dealing with a multifaceted notion to which it is very difficult to find a final and authentic meaning. If in sociological and political discourses this expression already has many different meanings, in the juridical discourse the situation is even more confused owing to the reticence of the "guardians of the law" (such as legislators, judges and experts) to openly admit it into the closed gate of positive law. Consequently, we must admit that we are speaking about an intangible word. At the same time, this intangibility seems like God itself, hidden in the cloak of Isaiah or in the "small voice" of Mount Oreb. In other words, I think that civil religion is necessarily intangible, because it tells us about the problematic relationship between God and human power, a relationship which is never broken off but rather often concealed in the supposedly rigidly dualistic Western world.

Secondly, if we accept using civil religion in this more flexible sense, we can observe that its different interpretations have become one of the more common features distinguishing the old and the new continent. In fact, faced with the impossibility of expelling religion from the public arena, modern Europe, having risen from the ashes of absolutist and mono-confessional states, has chosen to invest in a direct relationship between individual and state; to privatise a monopolist God and to publicise His many agents, the single churches, with concordats and agreements. On the contrary, the United States, rooted in a pluralistic society and a liberal state, does not have the same tension between State and society and have preferred to publicise its pluralistic God and privatise its churches (Ferrari A. 2003, Van Der Veer, 2008). Consequently, in Europe we have had a more state centric and (sometime dramatically) secular-oriented civil religion; in America, a more religion-centric civil religion, where God has been emphatically engaged in promoting civic virtues (Rusconi 2005, Gentile 2004, Baubérot).

Thirdly, today the new religious activism in the public arena seems to have grown: from the "small voice" of Mount Oreb, we are confronted by a true "great wind"

which sweeps away the frail barriers between sacred and profane. In this new situation, civil religion seems to live a second life, which is very similar on the two sides of the Atlantic. Europe, in fact, is discovering a sort of Americanisation of its civil religion by enthusiastically calling on religions to protect democracy facing the "paradoxes of pluralism" (Marcil Lacoste 1991) and the inadequacy of too "cold" procedures; in the United States the trend could be toward a sort of Europeanisation of the same notion, by publicizing not only God but the single churches themselves.

What, in this picture, is the Italian position? Italy reflects the European landscape, but with a unique peculiarity closely connected with its destiny to host the centre of the Catholic (= universal) Church and to still be a Nation without State. Consequently, because of this lack of State and this surplus of Nation an Italian civil religion seems very difficult. In fact, on one hand, an Italian civil religion will tend to amount to privileged treatment for this Church and, on the other, a civil religion - or even a sort of "vicarious" civil religion (Rusconi 2005) - helpful for democracy, seems to have in its place a church-religion aiming to establish a "protected democracy": a democracy subordinated to the objectives and non-negotiable values of a single church. Italian Catholicism, therefore, plays more the role of a specific "political culture" than that of a civil religion (Ferrara 1999).

In other words, it seems to me that the Italian case, and the impracticality of its producing a civil religion, reflects a still permanent European history (Hölscher 2008) and forewarns some optimistic supporters of the public role of religions (Casanova 2008; Willaime 2008) that asking them for help in supporting democracy is not a cost-free operation.

§ 2 Italian Catholicism as Civil Religion or about a Nation without a State

Italian unity, which was achieved in two steps by the Kingdom of Piedmont, in 1861, with the proclamation of the Kingdom of Italy, and in 1870, with the capture of Rome, substantially had a fortuitous character (Duggan 2008). Nothing connected the other Italian territories to the Savoy monarchy, and this latter considered the new "Italian" lands with deep suspicion, the South in particular being perceived as a land of ignorance and barbarism. Moreover, since the end of the Western Roman Empire, the peninsula had been simply a geographical expression (Metternich), a target for foreign conquerors and without any central structured political power. Without a common language and with many dialects (the new Italian kings spoke the dialect of Piedmont or, at least, French); without a widespread culture able to found civic engagement (Italy came just below Russia for illiteracy); born from the ashes of small, conservative, patriarchal states far from both the administrative organization of absolutist states and from the civic vitality of municipalities of the Renaissance where an embryo of civil society and the "Republicanism" of Machiavelli were developed (Altan; Della Loggia; Jemolo), the only cement holding the new country together was the Catholic Church, which was the religion of most of the population.

Consequently, despite the great internal variety of Italian Catholicism itself¹, the fidelity of the new country to "its" religion represented a sort of "implicit rule" (Macdonald) which was to influence all Italian history, in particular by nourishing a strong rhetoric of continuity able to cover the difficulty of solving the problems of a deeply divided country (Nord/South; cities/countryside), without a politically active middle class, under the reassuring cloak of a generic Catholic identity. In other words, the Italian unification was limited to geography and it was not accompanied by constitutional reforms based on strong ideals (*laïcité* and the idea of public service, for example) able to nourish the process of nationalisation with more secular values. The liberal governments of the XIX century were more worried about conciliating the Church with the new central power, which seemed to perceive itself as a usurper, than about enlarging the spaces for political participation from which most of the population was excluded. In other words, in a country which was almost entirely Catholic, before its laicisation, or the secularisation of society, what the new state considered the optimum target was simply the overcoming of the Church's temporal dominion. Hence the genetic difference between the Italian situation and that of other countries. Elsewhere the absence of a temporal dominion of the Church concentrated the struggle between secular and spiritual power precisely on all those matters (school; welfare state) that in Italy have been the subject of practical accommodations between the Church and public authorities since the beginning. In other words, the State-Church conflict in Italy was above all at the high level of the formal and institutional relations between a new and an old State. On the contrary, the lower level, the social life, was the place of accommodations between State and Church, the place where Catholicism continued playing its full role.

This unifying role of Catholicism explains the Nation-State and not State-Nation character of Italy. Unlike in France – the classical example of a State-Nation - in Italy social cohesion has been entrusted more to a certain natural, cultural religious homogeneity than to a "patriotism" founded on a common bond of citizenship based on public institutions.

It is at this time that we find the origins of the Italian "civil religion" or, rather, the origins of the lack of an Italian civil religion.

On one hand, in fact, we could say that the Italian experience in the XIX century was a great example of how a liberal state could face a strong and undemocratic power, which did not recognise the legitimisation of the secular institutions, without renouncing the protection of freedoms for individual citizens or for ecclesiastical

¹ Many authors have pointed out the lack of religiosity of Italians, their pagan superstitions, the great variety of Catholicism itself in the peninsula (speaking about an Italian Catholicism would have had no meaning at these times) (Gramsci; Jemolo; Margiotta Broglio), but the fact that more than 90% of Italians were baptised into the Catholic Church and under its canonical jurisdiction was one of the few common elements of this new political entity.

organisations themselves. On the other hand, nevertheless, it cannot be forgotten how continuous accommodation with the Catholic Church, while it impeded dramatic lacerations, contributed in a decisive way to giving Italy a legacy of permanent institutional weakness.

The desperate effort of the liberal class to conciliate the papacy with the new order highlights not only the virtues, but also the original sin of Italian political history: the failure to build a pluralist institutional system without either a true pluralistic society or the political will to encourage the development of the civil society. This sin is rooted in two core ideas which were typical both of the Italian liberal state and of the Catholic Church: the strong centralism and the way of considering their own law the only juridical system. These orientations also explain three features still evident in the Italy of today: 1) the privileged position of the Catholic Church, placed at the top of the "pyramid of the cults"; 2) the way of considering relations between Catholic Church and State a constitutional and apical matter, of exclusive competence of the central governments of the State and of the Church; 3), more in general, the attitude towards a pluralism more top down rather than bottom up and more fragmented than integrated (Ferrari, 2008).

Far from upholding the new liberal and potentially democratic institutions, in exchange for definitive conciliation with the Italian State – as a civil religion would have done - the Church demanded the renunciation of full secularism, or, which is the same, the renunciation of a tendentially non-cognitive and hypothetically relativistic procedural democracy.

Around 1870, the lawyer Pasquale Stanislao Mancini summarised this situation with these words: « conciliation can be made either by accommodating the papacy to Italy and to civilisation (and this is impossible) or, unfortunately, by accommodating Italy to the Pope. If it is not possible to make the pope Italian and civil, the only thing will be to make every effort to make Italy clerical and papist. The institutions, therefore, will be corrupted, the laws changed, freedom wounded, and privilege and Catholic intolerance honoured. All this to please the pope and to reach this great goal of conciliation »².

As we will see, more than a century later this hard sentence still seems to offer some elements for reflection.

The apex of this process was reached with the "Conciliation" of 1929, with the Pacts of Lateran with which Italy and the Holy See recognized their respective legitimisation. We could say that after these pacts Italy and the Holy See *simul stabunt et simul cadent*, or, more realistically, that Italy, unique among Western countries, as an institutional entity, is founded on a very strong and formalised religious legitimisation which inevitably still influences it strongly.

² *Discorsi*, III, p. 475, quoted in Lorenzo Frugiuele, *La Sinistra e i cattolici. Pasquale Stanislao Mancini giurisdizionalista anticlericale*, Vita e Pensiero, Milano 1984, p. 93.

But it is time to turn the page.

§ 3 The "Constituent moment": a lost opportunity for an Italian civil religion?

The two years between 1946 and 1947 were unique in Italian history. Italy had become a Republic; an Assembly was elected by universal suffrage and the big popular parties - Catholic, communist and socialist - unified by their common opposition to fascism, for the first time participated together both in the government and in the definition of the Fundamental Law of the country. The feeling of living an extraordinary experience was so strong that, at the end of the works of the Assembly, someone, to celebrate a task destined for future generations, proposed that the name of God should be included in the Constitution, and the old idealist philosopher, Benedetto Croce, invited the Assembly to sing the *Veni Sancte Spiritus*.

But it was just a moment, and it is not sure that the Holy Spirit – at the end not invoked - in fact came. The Cold War and external pressures rapidly broke the alliance between communists and Christian Democrats, paving the way for forty years of continuous government by the Christian Democrats, without any alternation.

The Constitution of 1948, which is still in force, was, eighty years after the unification of the country, the first true Italian Constitution. It is the only legal text approved by all the democratic political parties which has tried to enforce in positive law the values at the basis of the national pact: in other words, it has tried to give Nation a State.

This memory of unity, and the awareness of being effectively in front of quite a well drawn-up text, are at the origins of the myth of the Constitution: which is, in fact, the only moment that can be invoked to recall an epic time in Italian national history when great ideals (Catholic, liberal, socialist and communist) were embodied in individual people able to accommodate private interests with the common good and prepared to accept the risks of canalising their private values within the formalised procedures of democracy. This Magna Charta of the State, with all its symbols: the tricolour flag; the national anthem; the "turreted Italy" (the woman who represents the country); the star with laurel and olive, which is the national emblem, is continuously - I would say desperately - invoked as a centre of a Republican civil religion, what Habermas would define as a constitutional patriotism. The example of the former President Ciampi is remarkable in this sense.

Nevertheless, this "constitutional moment" has not still succeeded in its task.

There are many reasons that can explain what seems a real impossibility of implementing the State in the Nation³ and, therefore, of building an Italian civil religion.

First of all, a sort of general incredulity or moral laziness (Jemolo 1960) : it seemed impossible to many Italians - to the "silent majority" - that a tired, conformist country could have so progressive a Constitution: the Cassation Court quickly explained that the articles of the Constitution were not immediately enforceable but simply programmes for a better, and perhaps eschatological, future. At the same time the state apparatus was the same as in the former fascist regime. The password was pacification, and public administration became the place of clienteles and nepotism, with the Christian Democrats committed to occupying the central administration and the left wing the peripheral places. It would have been very strange for these people to have been strongly enthusiastic in advancing the new principles. On the symbolic level, the emblem of the Republic was created in such a great hurry as to be "without character or heraldic style" (Bascapè, Del Piazzo); the national anthem was temporarily chosen and is still today the provisional anthem of the Republic ...; in the commemorative stamps of October 1946 there were no references to the State: they were about an ancient, glorious past, the seafaring Republics and the Florentine Republic (Duggan 2008). There was nothing about the contemporary era, and nothing about the "Resistance", the civil war against Nazi-fascists, whose epic is at the basis of the Constitution.

If the existence of a symbol depends on its effective force and, therefore, on extra-judicial factors, and if symbols can play their integrative function only if sustained by a widespread custom in society (Morelli 2005), we can understand that these Republican symbols have simply fallen from the top of the State on a refractory Nation.

The implicit rule which recalled that Italy owed its existence solely to its classical and Christian heritage, and that only Catholicism had saved the country from the disaster of the war years, when all civil institutions had collapsed, and it had again been able to save Italy in the face of the danger from communism, continued nourishing a rhetoric of continuity of an Italy under the perennial benevolent umbrella of the Catholic Church. Nothing, and least of all a simple Assembly of utopian people, could break off a millenary history.

Once again, like at the time of liberal governments, Italy was faced by a confrontation between a "legal" and a "real" country: the idea of common institutions equally open to all new and old Italians was a matter for a minority élite.

³ Or vice versa.

As a matter of fact, the implicit Italian rule had embedded an important flag in the Constitution itself: the second paragraph of Article 7, which guarantees the Pacts of Lateran and the prominent position of the Catholic Church. In fact this article, for which the Catholic hierarchy did everything it could (once again working more for this private guarantee than for general laws equally good for everyone) (Sale 2008), has been considered as the "mother of all constitutional antinomies" (Ainis 2009). Indeed, even if the Constitution speaks about the freedom of religion for the individual and for groups, with no distinction between foreigners and citizens (Arts. 19 and 20); even if the same Constitution proclaims the distinction between the State and the Catholic Church and guarantees equal freedom for all religions (Catholic included) (Arts. 7 and 8), contemporary Italian history shows us a different picture where the Catholic Church is clearly still at the top of the pyramid.

This situation is closely connected with the ambiguities of Italian laicity and with an interesting process of the emersion of the implicit rule which characterises contemporary times.

§ 4 Italian *laicità* as an implicit rule detector

Like all Western Constitutions, also the Italian Constitution declares the separation between State and Churches, and like other countries with a history of Catholic monopoly it uses the word *laicità* to indicate the independence of civil power from religions. At the same time, Italian *laicità* naturally reflects a peculiar history and represents a sort of planet around which different discourses clash, and, in particular the rhetoric of continuity of the Catholic Nation and the new legal discourse of the State: again, the Nation and the State.

First of all let us consider the legal discourse.

Neither the Constitution nor the laws define the principle of *laicità*. It has been the Constitutional Court which has identified it. For the Court, this principle implies, above all, "not the state's indifference towards religions, but the state's guarantee to safeguard religious freedom in a regime of confessional and cultural pluralism".

Therefore, Italian laicity does not intend to fight religious presence in the public arena. *Laicità* is not an instrument or a goal of a policy of secularisation by the Italian state and civil society, and nor can it be assimilated either into a form of laicism (if this word is intended to be synonymous with anti-religious) or secularism (if this word is intended to be synonymous with the invisibility of religions in the public arena). In the discourse of the Constitutional Court, Italian *laicità*, implying a "regime of confessional and cultural pluralism", supposes the existence of a plurality of value systems and the same dignity of all personal choices in the field of freedom of religion and conscience; it entails identical protection for specific religious freedom and for the more generic freedom of convictions. Consequently, *laicità* imposes, at the same time, state neutrality on these and a state commitment to

promote and guarantee this pluralism. As a result, this principle does not just refer to state-church relations but, as a "supreme principle of constitutional order", it is a summary of the values and duties of the contemporary pluralistic and democratic State in which religion plays a full role, like each other element of civil society⁴.

If the official discourse of the Constitutional Court about *laicità* is clear and coherent enough, the situation is more complex when, from the principles expressed by this Supreme Court, we pass to the jurisprudence of lower courts or to legislative, administrative or political levels. It is, in fact, at these levels that the implicit rule, the rhetoric of continuity of the Catholic Nation, works, using the reference to the Catholic tradition as an instrument to limit or master social pluralism. When the official discourse of the Constitutional Court and this implicit rule clash, the result is a kind of hybrid, which could sometimes even seem to be a victory for this rhetoric of continuity, but that in reality reveals its weakness: the need for implicit rule to emerge to survive, and, then, its need to accept being more exposed to the influence of the formal Constitution.

First of all, look at how, and at the immediate reason why, this *laicità* was born. The judges had to discuss an article of the Concordat between the State and the Catholic Church. Even though it was about the new Concordat of 1984, the supreme judges considered that it was still protected by Article 7 of the Constitution, which only speaks about Lateran Pacts: consequently, had they wanted to decide about its unconstitutionality, they would have had to find a super-rule, higher than an ordinary constitutional rule. And *voilà!* *laicità* as a supreme constitutional principle.

These complicated proceedings immediately reveal a sort of genetic weakness of the Italian *laicità*. This principle, in fact, appeared more for formal reasons (to find a rule formally superior to the Concordat, which is "included" in the Constitution) than for substantive or more political ideals (Stefanì 2007). Therefore, in its concrete contents, it risks perpetuating the implicit rule, taking on a Catholic meaning and becoming a "baptised *laicità*" or, as popes say, a "sane *laicità*". This has been the case with the first decision in which laicity appeared, where supreme judges legitimised teaching the Catholic religion in state schools with a true *fictio iuris*, by imagining teaching inspired by pluralistic values and consequently not opposed to the principle of *laicità* as non-establishment: as though the teaching of the Catholic

⁴ The Constitutional Court has pointed out five main obligations for the state: 1) the obligation to safeguard religious freedom in a regime of confessional and cultural pluralism (203/1989); 2) the obligation to respect confessional autonomy, with the prohibition to intervene in the internal life of the religious confessions (259/1990): this "confessional otherness" explains both the separation/distinction between state and churches and the bilateral agreements between them; 3) the obligation to be equidistant and impartial towards all religious confessions, but with the possibility of concluding concordats or agreements with them when their specific identities allow a reasonable, different treatment (508/2000); 4) the obligation to protect the conscience of everyone, irrespective of his or her specific credo or conviction (440/1995); 5) the obligation to distinguish between civil matters and religious matters that entails the illegitimacy of the political use of religion and the religious use of politics (334/1996).

religion would effectively represent the teaching of all religions, the teaching of a civil religion. In so doing, the judges totally ignored the reality of this teaching, which is, according to the law itself, strictly Catholic. Nevertheless, also this timid *laicità*, which is totally subjected to the rhetoric of continuity that sustains Catholic teaching in state schools, while at the same time above the sources of law, causes difficult contortions of the implicit rule and progressively undermines the strict confessional character of the religious teaching.

Moreover *laicità* can be used directly by the implicit rule itself, as that tries to exploit this principle, giving it a strong Catholic interpretation, when it appears in the juridical scenario. This is the case of the increasingly frequent draft laws which try to formally recognise the Christian (or the Judaic-Christian) character of the country by declaring its compatibility with laicity. The result of this operation is to display the sectarian nature of these initiatives (only presented by the Right and never approved by Parliament), and to display once again the impossibility for Catholicism to play the role of civil religion. This result also fully reveals the distance between a European country and the U.S.A.: in Italy, in fact, nobody really believes, as Joseph Weiler would do, that recognising the Christian character would be compatible with an open and inclusive society.

On the contrary, recognising an apparently generic Christian heritage, a Christian *Leitkultur*, would signify closing the doors to newcomers and clearly affirms the supremacy of the traditional Italian religion: it is significant that the place for this recognition is Art. 7 of the Constitution, which only speaks about ... the Catholic Church. Once again, the lack of a true civil religion explains the fundamental role of the principle of *laicità* in keep the public arena as accessible as possible.

§ 5 A crucified State?

The most interesting hybrid between the principle of *laicità* and implicit rule, and the most significant example of what an Italian civil religion would want to be is given by the cross in the classrooms of state schools.

In this matter it is important to note, on the one hand, the motivations used by the Courts to legitimise the monopolistic and compulsory place of a religious symbol in state schools, declaring the decrees of the fascist period, which foresaw this presence compatible with the principle of *laicità*; on the other, we should consider the consequences of this judicial discourse on the formal level of the sources of law.

First of all: how can judges declare the cross compatible with the principle of *laicità* when the Constitutional Court defines this latter as a guarantee of religious and cultural pluralism and neutrality of public authorities ?

The strong rationale used by judges is strictly connected with the rhetoric of continuity of the Catholic Nation and the implicit rule of Italian juridical system. In fact, considering that the cross was also in Italian state schools at the time of the

liberal regime that struggled against the pope and his Church to achieve the unity of the country, judges conclude that the presence of the cross is not connected with the confessional fascist regime, but with a sort of implicit rule, a true constitutional custom, which they call "a condition of use" of Italian *laicità*. In other words, for judges, the principle of *laicità* should not be interpreted as only referring to the articles of the Constitution, but, above all, to extra-judicial elements such as the cultural tradition and customs that would have been translated into the Constitution itself and, in particular, into Art. 7, about Lateran Pacts. As is evident in the "Charter of Values of Citizenship", published in 2006 under the umbrella of the Home Minister, this explanation perfectly shows the Nation-State character of Italy, which will take into account the needs of other religions and cultures not from the point of view of its Constitution but, first of all, from the point of view of its religious and cultural tradition. The logical consequence of this rationale is an interpretation of Italian religious freedom based on the idea of a privileged treatment of religious convictions over non-religious ones (= *favor religionis*), and on a clear superiority of the Catholic Church: in fact, the first paragraph of Article 8, which foresees equal freedom for all cults, is completely ignored by judges. In this discourse, the dangers of the so celebrated passage from an emancipating laicity and a gentler guaranteeing laicity are evident: without an emancipationist will, laicity risks simply photographing reality, reproducing a sort of "real sociology" and renouncing the quest for substantial rights, one of the most important features of the constitutionalism of the post Second World War period. We will simply come back to the discourse of the famous historian and lawyer Francesco Ruffini, who in 1924 wrote that the desire to achieve perfect equality of legal treatment among different religions would have ended up signifying « not a work of practical justice, but simply of abstract justice ». We see today all the effects of this "real" or "concrete" "sociology": this sentence, in fact, seems - at least in Europe - still very provocative and actually faces the difficulty of extending the benefits provided for traditional religious groups to "new" religions.

From this main rationale stem the other motivations used by Courts to justify the compulsory exposition of the cross. First of all, this "constitutional custom" is said to be sustained by secularisation itself, which would weaken too strong confessional approaches and which would allow all children, and especially extra-communitarian ones, to perceive the universal values of tolerance and respect transmitted by the cross. Therefore, these values would be the same included in the Constitution and summarised by the principle of *laicità* which would consequently receive a true transcendent foundation. This passage from the Christian cross to natural law and, finally, to the positive Constitution, is certified by the assumption of the same judges that the cross represents a sign of national identification and that it would be difficult, or, rather, impossible, to find another symbol able to perform this task. The constitutional symbols, starting with the national flag, are never considered by judges and we could conclude that, in the absence of symbols of a "demos", or of a political/state community able to integrate through its laws, the cross plays the role of

a symbol of a potentially exclusive national "ethnos" founded on its religion, playing the role of a "guardian of multiculturalism", affecting the openness of the system to the acceptance of the Catholic character of the country by newcomers.

In this picture there is evidently little space for individuals. Judges apodictically declare that no one can consider themselves negatively provoked by the presence of the cross, and that this feeling cannot constitute the subject of a legal trial but only of a political debate ... The supposed (moral) majority, "the best", does not have any pity for the minority, the sinner: no quarter in this field.

Moreover, it is interesting to note that there are not the individual rights of religious freedom granted by the Constitution to allow Muslim children to wear headscarves in state schools but rather the Christian crucifix on the wall of the classroom⁵. And this fact reveals how the interpretation of judges is very careful in selecting the kind of secularisation through which to read the cross: it is clearly a secularisation read in the light of the Second Vatican Council and not in the light of the political secularisation of the Northern League that uses the symbol of Christianity to expel immigrants.

Finally: what do these decisions reveal about the Italian system of sources of law? The crucifix affairs have forced the implicit rule to emerge and to be formally declared as a super-constitutional law, having been identified with the principle of *laicità* itself. What is important to note, in fact, is that the presence of the crucifix in state schools has been nearly constitutionalised by administrative judges at the same moment when this presence is lacking in any certain positive legal source. In fact, the fascist decrees are seriously questioned by many. It is thought they should have already been tacitly abrogated or that they are in conflict with the Constitution, and in particular with the principle of *laicità*⁶. At the same time, paradoxically in a case concerning a symbol which has been declared to be the sign of national identification, and, consequently, a case concerning a constitutional matter, the supreme guardian of the Constitution, the Constitutional Court, has declared itself incompetent in the matter, in terms of the simple administrative - and not legal - nature of the decrees. Moreover, it is for fear of intervention by the Constitutional Court that no law has been presented by the supporters of the crucifix to clarify and reinforce its presence in classrooms: such a law, in fact, could be declared unconstitutional by the Court. Consequently, the symbol of the Nation has its place just for an implicit rule that over-rules all other sources of law. We see, again, another perfect picture of a Nation without a State.

⁵ In state schools the teaching of education in citizenship has always been very weak and, of course, influenced more by Catholicism than by the Constitution.

⁶ Moreover, for some authors, the same should have happened to Art. 7 of the Constitution, after the enforcement of the new Concordat, which has substituted the old Lateran pact: in this case the same "macro-rule" which establishes the predominant role of the Catholic Church would have lost any meaning.

§ 6 Some Conclusions

We now need some brief conclusions.

Italy is a Nation without a State and, consequently, with a weak sense of Constitution, with great ignorance about it, as the President of the Constitutional Court has recently affirmed, and where the Prime Minister can claim the "soviet" nature of the Constitution simply because of the presence of some limits to his power.

Italy, on the other hand, is a country with a strong Catholic feeling, where Catholicism has played the role of the "cement" of the Nation. Catholicism and the Constitution, Nation and State, have a strong connection, if we think how many Catholics participated, with strategic roles, in the drawing up of this text. But the relations between the Catholic hierarchy and the Constitution, the State, are much more ambiguous. On the one hand, the intervention of the Church is frequently required by a weak political class to improve the civic feeling of the people: for example, to encourage the payment of taxes; to sustain peace in the world; to support the struggling welfare state through its charities; to stop the secessionist tendencies of the Northern League, to fight terrorism in the 'Seventies and the Mafia and Camorra today. At the same time, the intervention of the Catholic hierarchy aims not to freely sustain the democratic state institutions *per se* but to enforce moral perfectionism, which is sold as a natural, universally valid law, and an idea of a Catholic Italy perceived as the last bastion in secularised Europe and as a model for possible Catholic modernity.

When abortion, marriage and bioethics are involved, the hierarchy does not hesitate to unscrupulously use its lobbying force to exploit all the fragilities of democracy: for example to incite people not to vote; to attack parties and individual members of Parliament which do not defend its position, to block any law that could threaten its central position or its "non-negotiable values", such as the law on religious freedom, the law about the so-called *de facto* couples and the law about the "biological testament". This attitude does not help Italian democracy, by causing a vicious circle where all the weaknesses of the system play. For example: the opposition toward legislation on *de facto* couples provokes paradoxical legal evasions: a soldier wounded in Afghanistan was married, with a special canonical marriage service (= marriage in danger of life), to his woman when he was already unconscious and close to death, which arrived soon after: the religious marriage itself was invalid, because without consent, but the Church was in favour of allowing the woman to have a pension ... but what about a non-Catholic soldier who could not have any civilly recognised religious marriage? In another case, the lack of a law on "biological testament" causes individual highly publicised cases (like the Englaro case, which was quite similar to the Schiavo case) which are exploited by the monopolistic Italian media system to push in favour of the official and monopolistic Catholic position. (And Tocqueville would have had a lot to say about the connection of these two monopolies).

What I am saying is that contemporary Italy, in resolving the "Vatican question" in its territorial character has become a normal country where conflicts between state and church directly concern society. Nevertheless, paradoxically, this conciliation has broken the implicit rule which would like Italy as a Nation to be unanimous in its Catholic feeling. Perhaps this unanimity was necessary at the time of liberal governments, when the Italian State was not accepted, but today the possible and even ordinary division of the Nation, of a pluralistic society, needs a strong political system, a strong State, able to overcome this Oedipus complex. The possibility of an Italian civil religion depends on a new conciliation between State and Nation, and finally, we could say, on the "secularisation"⁷ of Catholicism itself.

This delicate moment is obviously causing a reaction, in the form of the emergence of the implicit rule which comes to the surface when it is losing its indisputable power.

This emersion could have two different endings, one negative and one positive.

The negative end: the desire to absolutely affirm the Catholic implicit rule could result in the continued weakening of the State describing it, and its main principle, first of all *laicità* itself, as instruments of the old, monopolistic Westphalian state, forgetting that constitutional *laicità*, with its pluralistic feature, is exactly the end of this form of State and represents explicit State openness to social forces and, consequently, to the Nation. Therefore, the opposition of the Bishop's Conference to the law on religious freedom because it contained a reference to *laicità* is not because *laicità* is a sign of the state monopoly, but because it is pluralistic and with time it could question the Catholic monopoly. In this case Catholicism could not act as a civil religion but as a political culture, as a sectarian lobby, which could risk encountering serious defeats.

The positive end: that the strategic choice for freedom of conscience and democracy by the Church of Second Vatican Council leaves space for a more direct political involvement on the part of lay people, and for the awareness that the creation of paradise will only be finished in another world, where there will not be any democracy. In this case Catholicism could play the true role of a civil religion if it can play its music with its more comprehensive notes⁸.

Nevertheless the Catholic Church, like other religions, seems today much more interested in the earth than in heaven. This could signify a big change in religions as a sociological subject and their transformation in this secular age into true political forces: and that could be the end of any civil religion.

But this will be for another conference.

⁷ We need (at least) another conference for explain the use this word.

⁸ Which, paradoxically, are not in the natural law, but in the positive divine law, which impose the "golden rule".