

From *Pacs* to *Didore*: Why Are Civil Partnerships Such a Divisive Issue in Italian Politics?

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Abstract: The issue of civil partnerships came onto the Italian political agenda a few years ago but so far none of the many bills that have been presented have gained sufficient support to be translated into law. This article reviews the political debate by considering Italy in the larger European context in order to underline the crucial role played by the European Union in setting the agenda and promoting measures in many member states. An interpretation of the Italian delay in regulating the relationships between co-habiting couples is offered in terms of the peculiarities of the Italian political system. Specifically, emphasis is given to the role of the Catholic Church as an active political actor; the ideological division between, and within, the coalitions; and finally the traditional political prominence of the family based on marriage: all these features taken together may help understand and explain why civil partnerships represent such a divisive issue in Italian politics.

Keywords: Italian party-system, same-sex union, civil rights, coalition politics, Catholic Church.

Introduction

Unlike the situation in other European countries and elsewhere, in Italy, the relationship between a co-habiting couple, whether of the same sex or of different sexes, has no legal recognition. Though the debate about civil partnerships has been on the political agenda for some years, to date the various bills that have been presented on this issue have not led to any kind of regulation of the rights of those in de facto relationships. The obstacles in the way of a process of recognition of types of relationship that differ from the traditional one based on matrimonial ties between a man and a woman are many. The most significant of them is perhaps the established political and cultural position of the traditional family (supported by the doctrines of the Catholic church) as the only possible object of policies of economic and social welfare – despite the fact that the family has in reality had little or no support from adequate social policies (see Saraceno, 2003 and Ferrera, 1996). And in the Italian case, such a position has provided the basis for a rigid defence of the family founded on marriage in conformity with article

29 of the Constitution, which states that, 'The family is recognised by the Republic as a natural association founded on marriage' (Gattuso 2007). Thereby, an outlook has taken root that not only clashes with policies to support equal opportunities and guarantee the rights of everyone but also seems hardly, if at all, consistent with a society in which, over the course of time, a range of different models of the family have emerged (Zanatta, 2008; Naldini, 2003). Not only that, the absence of any legal recognition for homosexual couples in Italy has become increasingly inconsistent with the warnings and invitations of the European Union (EU) since when, in 1997, article 13 of the Treaty of Amsterdam came into force to sustain Community action designed to combat all forms of discrimination based on sexual orientation as well as on sex, race or ethnic origin, religion or personal convictions, disability and age.

The purpose of this article is to provide an outline of the debate on civil partnerships that has taken place in Italy, the issue having given rise to bitter political conflict in recent years and – for reasons that we shall explain – having failed hitherto to find any kind of legislative response. First, however, it will be helpful to describe the situation in other European countries where the growing attention paid by the EU to homosexual partnerships has been enormously influential in eliciting measures, in the member states of Western Europe, to recognise such partnerships even though the type of protection offered varies.

The European Union, the member states and measures to support homosexual partnerships

Within the EU, a large number of the member states have taken steps to recognise the rights of those involved in civil partnerships, heterosexual and homosexual, and in some cases they have put them on the same footing as those of families based on marriage (for a general overview of the situation see Table 1). The countries that currently make no provision for regulating civil partnerships include, besides Italy, Greece, Ireland, Malta, Cyprus, Latvia, Estonia, Lithuania, Slovakia and Poland.

An actor that has done much to stimulate the recognition and regulation of homosexual unions has been the EU thanks to the adoption of a common policy to combat discrimination on various grounds including sexual orientation (for a general overview see Bell, 2002). Among the EU institutions, the parliament has for a long time shown a high degree of sensitivity to questions of civil rights and equal opportunities, and has passed a large number of resolutions on these issues, including Resolution A5-0281 of 4 September 2003 by which it recommended 'that the Member States more generally recognise non-marital relationships, both heterosexual and homosexual, and confer the same rights on partners in these relationships as on those who are married, inter alia by taking the

necessary steps to enable couples to exercise freedom of movement within the Union'. And within the framework of Community law too there has been growing acknowledgement that the legal status of unmarried couples provides a legitimate basis on which to found a relationship, as has been demonstrated by directive 2004/58/EC of 29 April 2004 concerning the right of Union citizens and members of their families to reside and move freely within the territory of the member states. The directive contains a definition of the term 'family' that is consistent with the Community's anti-discrimination principles in that it includes, besides direct descendents and direct relatives in the ascending line, the spouse and 'the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State' (art.2).

Table 1: The legal status of homosexual partnerships in Western Europe according to type of provision and year

Marriage	Partnership registration	Unregistered partnerships	No recognition
Netherlands (2000) Belgium (2003) Spain (2005)	Denmark (1989) Norway (1993) Sweden (1994) Iceland (1996) France (1999) Germany (2000) Finland (2001) UK (2003) Switzerland (2005)	Portugal (2001) Austria (2003)	Greece Ireland Italy

Source: Kollman (2009: 38).

Though Italy was late in giving effect to the directive (as a result of delaying tactics on the part of those political actors who were opposed to it), with the approval given to legislative decree no. 30 of 6 February 2007, the Community definition of 'family' was finally adopted. This gave rise to the paradox that non-Italian citizens of the EU could reside in Italy and benefit from recognition of their civil partnerships while Italian citizens remained deprived of this right. Confirmation of the central role of the EU in encouraging laws to protect and enhance equality (Donà 2006), is provided by the fact that the first and the only law protecting the rights of gays and lesbians in Italy was passed because of the obligation to give effect to

directive 2000/78/EC of 2000 concerning equal treatment in the workplace of people of different sexual orientations (Lo Giudice, 2008). What the influence of the EU shows is that there is a persisting legal vacuum in Italy with regard to all those issues that seem to throw the question mark over the status of the family founded on marriage between persons of different sex, thereby highlighting the inability of the political class to participate in a debate that could engage with the demands emanating from the complex and diversified society that Italy had become in the early years of the twenty-first century. As we shall see more clearly in the following section, in political debate in Italy, the issue of homosexual partnerships tends not to be discussed explicitly, but rather, to be subsumed within the more general issue of co-habitation, thereby encouraging vague definitions of terms and situations, even in the texts of bills.

The debate on civil partnerships in the Italian parliament

Bills providing for civil partnerships were presented in Italy for the first time in 1986 when the inter-parliamentary group of communist women supported by Arcigay (the organisation that seeks to defend and advance the interests and the rights of homosexuals) introduced two bills on the issue in the Chamber and the Senate. A proper parliamentary debate did not take place until many legislatures later, in 2004, under the centre-right government led by Silvio Berlusconi (2001-2006) following a request by the Left Democrats (Democratici di Sinistra, DS) that space be found in the parliamentary timetable for the bills concerning civil partnerships then being considered by the Chamber's Justice Committee. The proposals that were the object of discussion were sponsored by parliamentarians belonging both to the majority and the opposition, for a total of thirteen bills, but only two of them drew any attention: the Rivolta bill, expressing the outlooks of the secularist contingent among Forza Italia's parliamentarians and the Grillini bill (after the honorary president of Arcigay) with the support of representatives of the various parties of the centre left (from the DS to the Greens, from Communist Refoundation to a number of members of the Margherita (the 'Daisy')). It can therefore be argued that it was from the summer of 2004 that the issue of civil partnerships came onto the agenda of Italian politics, and depending on the times and the dominant political actors involved it was either an issue to be resolved or an issue to be avoided or postponed. The novelty of this debate lay in the fact that for the first time in Italy homosexual partnerships were being discussed (even though not directly and openly) in the absence of legislation that recognised and protected the rights of homosexuals as couples and individuals. In fact, as already mentioned, the only measure passed to date that outlaws discrimination in the workplace on grounds of sexual orientation is legislative decree no. 216 of 2003 which gives effect to

directive 2000/78/EC providing for equal treatment in work and conditions of employment (the decree being amended shortly thereafter when the EU initiated proceedings against Italy for having implemented the directive incorrectly). The partial or total absence of protection of the rights of gays and lesbians is confirmed by the fact that in October 2009, the Chamber rejected on grounds of its presumed unconstitutionality a bill against homophobia by 285 votes to 222 with 13 abstentions. Before going into the substance of this event (which is considered in the concluding section) it will be appropriate to review the principal phases that marked the debate on civil partnerships in order to understand the political context in which it took place and especially the divisions within and between the coalitions that were provoked by the issue. In this way an interpretation will be offered that can also explain why, ultimately, a law against homophobia failed to win approval.

The start of the parliamentary debate in 2004: civil partnerships Italian style

Grillini's bill of 21 October 2002 bill was entitled '*Disciplina del patto civile di solidarietà e delle unioni di fatto*' ('Regulation of civil and de facto partnerships'). It defined a civil partnership as an 'agreement between two persons, of the same or of different sex, for the purposes of organising those aspects of their personal and property relationships relevant to their partnership'. Rivolta's 2 October 2003 bill, in contrast, did not explicitly provide for homosexual partnerships. Entitled '*Disciplina del patto civile di solidarietà*' ('Regulation of civil partnerships') it defined the partnership as 'an agreement concluded between adults for the purposes of organising their affairs during the relationship or after its cessation'. Both proposals, on which the political discussion focussed, lack terms like 'family' and 'marriage', and instead envisaged an alternative, additional regime that would make possible the drawing up of contracts of a civil kind by those cohabiting couples that wanted to formalise their affective ties by means of the recognition of reciprocal rights and obligations.

During the course of the parliamentary debate, in September 2005, Francesco Rutelli, the president of the Margherita (the centre-left party whose moderate and centrist positions were very close to those of the Church) proposed, as an alternative to civil partnerships (which had become known to the public as 'Pacs', the acronym for the French expression *pacte civil de solidarité*), '*contratti di convivenza solidale*' ('united cohabitation agreements') (see Table 2 for a classification of the various proposals). The latter, in contrast to civil partnerships, relied on private contract law to define the partners' reciprocal obligations, while excluding from its purview any third-party obligations, including those of the state,

towards the contracting parties. In essence, this third proposal reduced cohabitation to the status of a merely private matter insofar as it denied any public recognition of the relationships of those who were unable or did not want to marry.

Table 2: A comparison of the different types of regime considered in the 2004-2006 debate on co-habiting couples.

	Marriage	Cohabitation	Civil partnerships	Cohabitation agreements
<i>Welfare and assistance</i>	Provides tax relief for those with dependent spouses. Provides recognition of the right of spouses to inherit each others' pension entitlements. Gives spouses the right to assist their partners, when hospitalised, even outside normal visiting hours. Spouses have powers of decision if their partners are legally disqualified, and in cases of organ transplant.	Provides no tax relief, nor any rights to inherit pension entitlements. Co-habitees have no rights to assist hospitalised partners outside visiting hours, nor any rights of decision in transplant cases or where their partners are legally disqualified.	The welfare and tax regimes applied to unmarried couples in 'stable' relationships should be equivalent to those for married couples. The rights enjoyed by married couples in the areas of hospital assistance, legal disqualification and organ transplants are extended to the contracting parties.	Rights to inherit pension entitlements are recognised but no tax relief is provided for. The right to hospital assistance is recognised, but the regime governing legal disqualification and organ transplants remains to be settled.
<i>The home</i>	Couples have the right to be considered for the allocation of public housing. Surviving spouses can take over pre-existing tenancy agreements.	Co-habitees can take over tenancy agreements but in 15 out of 20 regions, partners have no rights to be considered for the allocation of public housing.	Civil partners can take over tenancy agreements. Regions decide whether partners have the right to be considered for the allocation of public housing.	No provision is made for the right of those stipulating these contracts to be considered for the allocation of public housing.
<i>Inheritance</i>	The spouse is always the legitimate heir even if	No entitlement to inheritance. Unless the partner's will	Unless the deceased's will provides otherwise, the	Each contract may contain provisions concerning

	separated. The proportions surviving spouses are entitled to inherit cannot be taken away from them even if the deceased's will provides otherwise.	makes a bequest, the surviving co-habitee has no entitlement to anything.	regime is the same as for married couples: the surviving partner is deemed to be the legitimate heir.	inheritance that derogate from the legal codes otherwise applicable.
<i>Separation</i>	The 'weaker' spouse retains the right to reside in the family home and to receive payment for their own maintenance and those of their children.	If there are no children then the co-habitee with fewer economic resources has no right to payment nor any rights in respect of the home.	The economic consequences of separation are determined by the couple concerned. Custody of any children is given to both partners.	Provides for the possibility of maintenance payments. The 'weaker' partner is entitled to seek an enforcement order.

Source: *l'Unità*, 23 September 2005, p.8.

While the political parties discussed the merits of the proposals in Parliament, the Italian Bishops Conference (Conferenza episcopale italiana, CEI) and its president, Cardinal Ruini (in office until March 2007, then replaced by Cardinal Bagnasco) made their views known through the Catholic press (especially the dailies, *L'Avvenire* and *L'Osservatore Romano*) and through their endorsement of official documents defending the model of the traditional family composed of a man and a woman and considered the natural foundation of social life. On this occasion, as on others when sensitive ethical issues had been debated (for example, stem-cell research, artificial insemination, abortion, the day-after pill, living wills), the Church joined the debate directly, acting in the political arena as a lobbyist, without the intercession of the political parties (Ceccarini, 2008). In fact, since the demise of the Christian Democrats (the party that defended Catholic interests) and the subsequent restructuring of the party system, the Church has adopted a strategy of neutrality with respect to the political parties and coalitions with the result that it itself has become a political entrepreneur. In this way, the Church's political involvement has given rise to a debate about the secular character of the State. Returning to the proposal to give legal recognition to partnerships, the Church took a negative view of any attempt to legalise alternative ways of building families, criticising Pacs as 'small-scale marriages' and civil partnerships as reflections of 'a lack of genuine love', warning, moreover that any kind of recognition given to the

partnerships would bring 'considerable damage to the Italian people'. Underlying the Church's positions was the fear that recognition of civil partnerships would pave the way for the eventual recognition of gay marriages. If the Church's positions were easy to understand given the presuppositions of Catholic religious teaching, then what could not have been as easily foreseen was the enormous influence its positions would have on the parties, with the effect of rapidly transforming the political debate into a discussion of an ethical nature.

From the Dico to the Cus: the compromises in the government of the centre left (2006-08)

The end of the XIV legislature came about without a reform having been passed (partly because the two chambers were dissolved following passage of the new, proportional, electoral law in 2005) with the result that the unresolved question of civil partnerships became one of the issues dividing the centre right and centre left in the campaign for the elections of 9-10 April 2006. The Church's political activity against the so-called Pacts transformed the political into an ethical division. On the one hand the House of Freedoms (Casa delle Libertà) coalition posed as the defender of the family and the guarantor of traditional values, while on the other hand the Unione coalition (whose main components were the DS, the Margherita, the Democratic Union for Europe (Unione Democratici per l'Europa, Udeur), Communist Refoundation, the Greens) included in its programme – in a consciously vague way in order to hold the reformist and Catholic components together – proposals for recognition of the relationships of unmarried couples. Thus it was that in the most widely publicised political pronouncements, the issue acquired the ideological connotations of a conflict of values such as to transform it into a battle between Catholics and secularists and thus to undermine the possibilities of any agreement between the coalitions. Not only that, the governing centre-left majority itself – which emerged as the winner of the election but with a very small majority in the Senate – was internally divided by radically contrasting outlooks since coexisting within it were parties rooted in the Catholic tradition (Udeur and the Margherita) and parties inspired by reformist outlooks (the DS, Communist Refoundation, the Greens). However, despite the poor political prospects, Barbara Pollastrini of the DS and the Catholic, Rosy Bindi, of the Margherita – ministers, respectively, for civil rights and equal opportunities, and for the family – collaborated in the preparation of a bill entitled '*Diritti e doveri delle persone stabilmente conviventi*' ('Rights and responsibilities of long-term co-habitees'), known by its acronym, Dico, which was presented to the cabinet on 8 February 2007. The two ministers drafted their text with the constructive intention of finding a compromise between the various positions that were being expressed within the centre-

left coalition, and above all of fending off the criticisms of the Unione on the part of the Church. Indeed the government-sponsored bill did not envisage any kind of new legal institution or administrative procedure that could be detrimental to the rights of the family or provide for any quasi-matrimonial institutions. The bill was aimed at 'adult couples, legally capable of contracting, of the same or different sexes, united by reciprocal affective ties, in stable co-habiting relationships, who lend each other material and moral help and support'. The bill stipulated that after the relevant declaration had been made at a registry office, and after the lapse of a certain time period (which varied from six to nine years) certain rights (pertaining to health, welfare, residence permits, the allocation of public housing, the transfer of tenancy agreements) and duties (pertaining to alimony) would be recognised. Among the rights excluded from the bill was the right to inherit the partner's pension entitlements. From a technical standpoint, the greatest weakness of the bill was lack, if not the complete absence, of any precision concerning the affective ties that were supposed to underpin the relationship between co-habitees.

The Dico proposal too met with the firm opposition of the CEI and Pope Benedict even though it could be considered a milder version of the French Pacs. Not only that, in March 2007, in a pastoral letter, the bishops reminded Catholic politicians of Church teaching, calling on them not to support 'measures that compromise or undermine defence of the ethical requirements essential for the common good of society (...) The Catholic parliamentarian has the moral duty to express clearly and publicly his opposition and to vote against any bill that might offer recognition to gay partnerships'. In the meantime, the Government suffered an initial internal crisis when, with the need to approve the re-financing of the military mission in Afghanistan, a small number centre-left Senators voted against, in so doing provoking serious doubts about the likelihood of the Government's survival. Those who abstained (in the Senate abstention has the same effect as a no vote) included Giulio Andreotti, the life Senator and Catholic politician of vast experience, who explained his gesture as having been designed to express his opposition to the Dico bill. The Prime Minister, Romano Prodi, in an effort to avoid further divisions and possible crises, drafted a programme for the coalition consisting of twelve non-negotiable points. These concerned, among other things, foreign policy, education and heritage, energy, liberalisation, the South, pensions and family policy – but did not include civil partnerships. As if to highlight just how deeply divided the centre left was on this issue, the Catholic contingent expressed their whole-hearted agreement with the Church's call. They were led by the so-called *teodem*, which included the deputies Paola Binetti and Enzo Carra of the Margherita and the then justice minister and Udeur leader Clemente Mastella. Meanwhile, within the Margherita, the group of sixty

parliamentarians who had signed a manifesto in support of secularism and the Dico proposal responded to the bishops' admonitions by declaring that as far as they were concerned the only document that imposed any binding obligations on them was the Constitution. Outside Parliament, the following months saw the organisation of large numbers of demonstrations both on the part of those opposed to the Church's position (for example, the 'Dico Day' of 10 March 2007) and on the part of practising Catholics (the 'Family Day' held in Rome on 12 May 2007). On these occasions too, the Unione was divided, the reformist contingents participating in the former demonstration and the Catholic components in the latter, while the opposition took advantage of the 'Family Day' to present a united front as a guarantor of the institution of the family, thus staking a claim to the status of privileged interlocutor of the Church and defender of its interests. Such ethical disagreements over conflicting values had a significant influence on the parliamentary passage of the Dico proposal.

With regard to Parliament's formal deliberations, the bill was assigned for consideration to the Senate's Justice Committee, which was instructed to act in a referral capacity, on 21 February 2007. Its president, Cesare Salvi (spokesperson of the Democratic Left) immediately announced that the Government's proposal would not be used as the basis for the committee's deliberations, as the initial version of the bill it would refer back, owing to weaknesses in its drafting and the lack of a majority willing to support it. As an alternative, it was proposed to use the text, drafted by the Forza Italia representative, Alfredo Biondi, which provided for a '*contratto di unione solidale*' or Cus (a 'united partnership agreement'), that is, 'a contract drawn up between two persons of the same or different sexes, for the organisation of their common affairs' that would be stipulated by means of registration in the archives of a notary. The proposal aimed at regulating the arrangements between a co-habiting couple without entering into any consideration of why they might be living together (Sesta, 2007). After several months of deliberation (through 18 sittings and more than 30 interventions) the Committee, with the agreement of the minister for equal opportunities and civil rights, Pollastrini, decided to set up a sub-committee that would continue with the work of examining the ten bills including the Government's that had been presented. The declared objective of the president, Salvi, was to build, taking whatever amount of time was necessary (the maxim, '*né accelerare, né insabbiare*', 'neither accelerate nor bury' was his), a broad consensus around a text that would guarantee the rights of individuals within a publicly recognised relationship. It was thereby hoped to overcome the opposition of the Catholic spokespersons among the ranks of the majority (the *teodem*) and the opposition (the *teocons*). As the only government representative continuing to defend the executive's bill and the rights of homosexual couples, the minister Pollastrini took part in the Committee's deliberations

with the aim of ensuring that the range of rights and responsibilities of unmarried couples was not restricted and deprived of public recognition. For many observers and political actors, the decision to transfer the discussion to a restricted group amounted to an admission of the difficulties that were being encountered in producing an agreed text. In the meantime, the Gay Pride demonstration that had been held in Rome on 17 June had garnered massive support for the call for equality, dignity and secularism. The work of the sub-committee, after taking evidence from experts and representatives of interested groups (including Arcigay, Arcilesbica, the new families' association, the Family Forum) stopped in November since the absence of sufficient agreement on the Cus proposal forced Salvi again to put the item on the agenda of the Justice Committee. However, following the government crisis that led to Romano Prodi's resignation on 24 January 2008, the Committee never met again. And the issue of unmarried partnerships, which had animated political discussion and public opinion for so many months, was sidelined. Up to that point, the debate had revolved around two contrasting approaches to the issue of cohabitation (Sesta 2007): on the one hand, there was a view of cohabitation as an institution having legal consequences for the partnership of the persons involved (as in the case of the Dico proposal); on the other hand, there was the contractual perspective, which sought to avoid the creation, alongside the family, of an additional legal institution, and made the protection of rights a matter of individual responsibility (as in the case of the Cus proposal). The elections of 13 and 14 April 2008 brought victory to the coalition composed of the Northern League and the People of Freedom (Popolo della Libertà, PdL) – created through the merger of Forza Italia and the National Alliance – that is, to the coalition that had made defence of the traditional family one of its own main battle cries.

The Didore proposal in the government of the centre right (2008-)

How is the debate proceeding under the current government of the centre right? As already mentioned, in the discussion on the issue the centre-right coalition took on the role of guarantor of the role of the family and representative of the interests of Catholics and the Church. It is not surprising, then, that the Government's programme makes no mention of civil partnerships. However, in September 2008, thanks to the personal initiatives of two ministers, discussion of the issue was re-opened. It should be emphasised that this time, the initiative was not taken by the minister for equal opportunities, a post currently held by Mara Carfagna who, as soon as she took office, expressed her opposition to the recognition of civil partnerships unless they took the form of private contracts, stressing that 'the ministry's doors [would be] closed to those wanting to undermine the

uniqueness of the family' (*la Repubblica*, 21 May 2008). In short, the ministry whose remit is more closely connected than that of any other to promoting and assuring equal opportunities and to combating discrimination (including that based on sexual orientation) has proposed to do nothing concrete to extend to homosexuals a guarantee of the rights enjoyed by others (see the document, 'Linee programmatiche del Ministro per le pari opportunità' of 31 July 2008 at www.pariopportunita.gov.it).

Returning to the issue of civil partnerships, the debate was re-opened by an interview given to the daily newspaper, *Il Tempo*, on 7 September 2008, when the minister for implementation of the Government's programme, Gianfranco Rotondi, revealed that together with the minister for the civil service, Renato Brunetta, he was drafting a bill 'for those couples, gay as well as straight, who do not constitute families in the way provided for by organised religion and the Constitution', emphasising that the proposal was not being sponsored by the Government, whose programme envisaged policies aimed exclusively at supporting the traditional family. In their capacity as members of Parliament, not as members of the Government, then, Rotondi and Brunetta have drafted a bill which has aroused strong opposition within the PdL majority, and attracted criticism, particularly on the part of Carlo Giovanardi, undersecretary of state with responsibility for family matters, and Maurizio Gasparri, group leader in the Senate. In discussions within the coalition, the minister Carfagna has expressed her support for resumption of the debate, without however having taken any initiative in terms of new legislative proposals. The bill entitled '*Disciplina dei diritti e dei doveri di reciprocità dei conviventi*' ('Regulation of the rights and duties of reciprocity on the part of co-habitees') known by the acronym DiDoRe attracted the support of around sixty PdL parliamentarians, thus transforming the bill drafted by the two ministers into a proposal with the status of a parliamentary initiative, in October 2008. Since March 2009, the proposal has been waiting to be considered by the Justice Committee of the Chamber of Deputies together with five other proposals, emanating from the ranks of the opposition. The bill tabled by the parliamentarians of the centre right is based on the presumption that the family based on marriage is to be the one and only object of the welfare benefits and policies currently in force (art. 1) and then goes on to establish a kernel of protection of the individual rights guaranteed to each person within a relationship of solidarity. The individual rights recognised include the right to assistance in cases of illness and hospitalisation; the right to participate in decisions about health matters; rights concerning the home; rights to alimony.

At the time of writing (December 2009), no meetings to discuss the proposals concerning civil partnerships have been timetabled; however, once the discussion gets underway, the existence of a bill tabled by the majority is likely to facilitate the approval of a law that will fill the current

gap in the Italian legal system. It seems unlikely, however, that the discussion will start soon as is illustrated by a recent episode. A press conference had been organised by two centre-right Senators, Maria Ida Germontani and Salvo Fleres, for 4 November 2009, to enable them to outline the details of a number of proposals concerning civil rights including an amendment of article 29 of the Constitution to include the rights of unmarried couples and the rights of co-habitees to inherit each others' pension entitlements. The conference was then cancelled thanks to the intervention of group leaders Maurizio Gasparri and Gaetano Quagliariello who, along with other government spokespersons reiterated the overriding commitment of the PdL to defence of the traditional family. This latest episode too, therefore, confirms that the likelihood of the current legislature seeing the passage of measures to regulate the position of unmarried co-habitees is small or non-existent.

Conclusion

Examination of the debate about unmarried co-habitees has shown the peculiarities of the Italian situation. These include, first, the role of Catholic Church in intervening directly in the debate as a political actor seeking to obstruct any kind of legal recognition of homosexual partnerships that can be put on the same footing as families founded on marriage; second, the transformation of a political into an ethical disagreement, with the centre right seeking to pose as the guarantor of the family and privileged interlocutor of the Church; third the divisions within the centre right and centre left, with Catholic politicians pursuing courses of action that cut across the lines of division between the two coalitions whenever ethically sensitive issues arise.

If such is the situation, then the above-mentioned peculiarities also provide a framework within which it is possible to interpret the recent decision to reject, on constitutional grounds, the bill seeking to combat homophobia by introducing sexual orientation or discrimination as an aggravating circumstance in criminal proceedings against persons accused of acts of aggression. On 13 October 2009, the proposal tabled by the Democratic Party (Partito Democratico, PD) (the result of the merger of the DS and the Margherita) was in fact blocked by the Chamber thanks to the votes of 285 members of the PdL, the Northern League and the Catholic party, the Union of the Centre (Unione di Centro, UdC). The PD and Italy of Values (Italia dei Valori, IdV) in contrast, supported the proposal which had 222 votes in its favour. It should be pointed out that ten parliamentarians voted against their parties' line so that internal disagreements, both on the left and the right, were apparent in this case as well. Why was this proposal blocked? During the course of the debate the

so-called *teocons* (the ultra-Catholic parliamentarians of the PdL) sought to advance two positions: it was maintained, on the one hand, that the proposal would pave the way for the recognition of homosexual couples, which might then acquire the right to adoption and to artificial insemination; on the other hand that the sexual orientation of the victim would receive special treatment as compared to other characteristics provoking discrimination – thus conflicting with the constitutional principle of equality. When the vote took place in the Chamber, the question mark that had been placed over the constitutionality of the bill masked what was once again an ethical division between those seeking to defend the traditional family and those recognising that there were alternative models of the family. In short, another opportunity to bring Italy into line with Europe on civil rights matters was lost.

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References

- Bell, M. (2002), *Anti-Discrimination Law and the European Union*, Oxford: Oxford University Press.
- Ceccarini, L. (2008), "Unioni di fatto e divisioni politiche", in M. Donovan, P. Onofri (eds.), *Politica in Italia 2008. I fatti dell'anno e le interpretazioni*, Bologna: Il Mulino, pp. 259-280.
- Donà, A. (2006), *Le pari opportunità. Condizione femminile in Italia e integrazione europea*, Roma-Bari: Laterza.
- Ferrera, M. (1996) "The Southern Model of Welfare in Social Europe", *Journal of European Social Policy*, 6 (1), 17-37.
- Gattuso, M. (2007), "La Costituzione e il matrimonio fra omosessuali", *Il Mulino*, 3, 452-462.
- Kollman, K. (2009), "European institutions, transnational networks and national same-sex union policy: when soft law hits harder", *Contemporary politics*, 15 (1), 37-53.
- Lo Giudice, S. (2009), "Le politiche istituzionali di contrasto alle discriminazioni per orientamento sessuale e identità di genere in Italia", in L. Calafà e D. Gottardi (eds.), *Il diritto antidiscriminatorio tra teoria e prassi applicativa*, Roma: Ediesse, pp. 323-331.
- Naldini, M. (2003), *The Family in the Mediterranean Welfare States*, London: Frank Cass.
- Saraceno, C. (2003), *Mutamenti della famiglia e politica sociale in Italia*, Bologna: Il Mulino.
- Sesta, M. (2007), "Una disciplina per le convivenze", *Il Mulino*, n. 3, 442-451.
- Zanatta, A.L. (2006), *Le nuove famiglie*, Bologna: Il Mulino.