# Diversity taking place.
# The relevance of planning and law in the location of plural religious claims

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# Executive summary

Most Italian cities are characterized by the presence of numerous Catholic Churches, which are often placed in central locations and distinguished by their beauty. It is, however, very rare to encounter non-Catholic, purposely built places of worship. Despite the increasing migration and the increasing number of non-Catholic communities, minority religious groups are often gathering in former warehouses or commercial spaces on the outskirts of cities. Starting with this observation on the dissonance among an apparently homogeneous cityscape and an increasingly diverse religious demography, this Ph.D. research inquires into the way that planning and law are involved in the accommodation of religious diversity.

The research is structured in three articles that intend to shed light on this core issue from different angles.

- *The limits of planning: Avoidance, concealment, and refusal of religious diversity in northeast Italy.*

The first article questions whether Italian planning tools and procedures, in how they are currently configured, can be expected to be up to the challenge of successfully accommodating religious diversity. The findings suggest the opposite: public administrations understand non-Catholic places of worship as something to avoid or conceal, if not to openly refuse, and urban planning contributes to the creation of a twin-track of recognition and legitimacy among religious groups. Research was conducted during a six-month period of fieldwork (from March to December 2019) in Veneto region, located in northeast Italy. Here, through semi-structured interviews and an analysis of secondary materials, the situation of nine municipalities ranging from very small centres (from 3 thousand to 10 thousand inhabitants) to large ones (over 200 thousand inhabitants) was examined.

The theoretical framework used for this article refers to three different, though related, nuclei. The first includes contributions discussing the conflictual nature of "the sacred" in public spaces and increasingly diverse urban contexts (Chidestar & Linenthal, 1995; Knott, 2001; Kong, 2008). The second considers the position of critical scholars who challenge a "progressive" understanding of planning in favour of a more complex understanding of the relationship between the "political" and "technical" dimensions of planning (Mazza, 2002; Yiftachel, 1998). Lastly, the third builds upon authors who write within critical secular studies (Asad, 1999; Cavanaugh, 2009), focusing on the relation between the "religious" and the "secular".

*- Stories of "mosques out of place": planning beyond the ideology of use conformance*.

The second article starts from where the former leaves off and, mostly through the analysis of secondary material, examines the way in which the legal category of religion is imprinted in space through planning practice.

Questions guiding this work include: is there some tool responsible for the spatial definition of religion? And, if yes, which assumptions about religion are hidden and maintained by it? Is there some room to rethink those assumptions and the way we inscribe religion in space?

Finding how procedures that require land and building use conformance are guilty of normalizing and keeping socio-cultural expectations about both religion and space unaltered – resulting in both direct and indirect exclusion – the paper then proposes to consider a revision of planning procedures such as that "use conformity" would no longer be held as a prominent requirement to settle. The proposal advanced in this paper is to abandon a kind of spatial regulation based on abstract, essentialized categories (such as religion) in favour of one based on external, concrete and negotiable ones (as, for instance, noise or traffic).

The theoretical framework for this article is given by the conjoined reading of authors writing in critical legal geography (Braverman et al., 2014; Delaney, 2015) and in critical secular scholarship (Mahmood, 2015; Nongbri, 2013; Sullivan, 2005).

*- The (sur)real space of the of law: the impact of norms beyond mere compliance*

Similar to the former, this third article is also concerned with the way law is spatialized, but it approaches the issue from a different, and more theoretical, angle. It thus questions: what does it mean for a law to be spatially effective? To answer this question, the paper first considers the idea of law effectiveness as implied in two important paradigms: the former– instrumentalist– understands effectiveness as mere compliance of some action to what is dictated by the rule, while the latter –constitutive – understands the matter in terms of the ability of rules to create meanings and become integral to social life. Then, looking for an alternative that could proficiently and systematically be applied in urban and geographical inquiries, the paper proposes to look at effectiveness as operativity, which means to closely consider how law is creatively inhabited, actively taken-up, variously transformed, and finally embedded into tangible outcomes by society. The key to this understanding is provided by the concept of nomotropism (namely, acting-in-light-of-the-rule) initially developed by Conte (2000) and then taken and refined by other Italian philosophers of law (Fittipaldi, 2013; Di Lucia, 2002; Passerini Glazel, 2012).

The utility of this approach to urban studies is exemplified through the analysis of a conflictual process for the accommodation of Muslims in an Italian city.

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# CHAPTER 0
# Introduction

## *1. Questions, aims and relevance*

With increasing mobility, diversity in urban space has become a main concern across a variety of contexts and countries. Countless researches (Ambrosini & Boccagni, 2015; Fincher et al., 2014; Pennix et al., 2004; Qadeer, 2014; Sandercock, 1998), reports (IOM, 2015; Pew Research Centre, 2016; ISMU, 2019), policies and projects address the issue in its multiple shades; either praising the benefits of a diverse environment and celebrating diversity, or weighting its costs, alternating enthusiasm with concern. It is probably not an exaggeration to say that diversity has been on everyone's lips for some time now.

Regardless of whether we refer to diversity as a general and theoretical ideal, or whether we privilege a more specific angle (for instance, concerned with ethnicity, language, gender or sexual orientation), the relevance of the issue to everyone's urban present, and future, can hardly be ignored.

Since society has emerged as fragmented across a potentially infinite number of lines, and since the utopia of shared public interest has consequentially faded (Campbell & Marshall, 2002), then public authorities at different levels of government are more and more often challenged by the need to deal with the plural character of their territories. Two questions seem of particular urgency: is it possible for people differing in their origins, habits, preferences and claims to live next to one another, sharing the same political system, legal framework and urban space? And, if the answer is yes, then how is such possible, and what role can local public administrations play in easing this cohabitation?

This dissertation (composed of three autonomous but linked inquiries) only marginally touches on the former of these questions; the plural condition of cities is here taken as a point of departure, an unavoidable condition on which – at least at the local scale – the room for manoeuvre seems to be very narrow. Given this situation, the work makes the second question its main area of attention, and articulates it through a focus on spatial planning.

It thus asks: *how is planning relevant to the way diversity takes place, and how can it eventually be rethought if one wishes for it to play a different role?*

The intention is to avoid to address this wide theme only remaining on a theoretical level, thus risking either to repeat what already argued by far more experienced scholars or to fall in the trap of making general and generalist assertions. For this reason this dissertation's focus will not be on some abstract understanding of the "diverse" as it happens in some abstract "space" that is governed by some ideal administration. More narrowly, the work concentrates on the accommodation of

religious diversity in Veneto, a region located in northern Italy characterized by demographic, political and legal features which make it a relevant laboratory for observation, in particular due to the relevant disconnection among an increasing demand for religious spaces and the corresponding scarcity of supply.

Whilst I will elaborate on this geographical choice later in this introduction, the selection of a theme as specific as religious diversity needs to be explained here. As mentioned, research centred on the theme of diversity has focused on a wide range of categories. On one side, something that keeps these works together is their explicit interest in the kaleidoscopic nature of society, their discontent with minority group marginal position in consolidated spatial assets, as well as their trust in the transformative potential associated with difference. On the other side, however, this body of research concentrates on the different pieces of the kaleidoscope (ethnicity, gender, sexual orientation, class, etc.) and this, of course, implies a consideration of theoretical references, contexts of empirical research and ethical positions that may be rather distant from one another. If categories as race or gender have more commonly been addressed in urbans studies, that of religion has so far remained rather on the periphery (Ivakhiv, 2006). Although this has recently been changing, and in the last decades an increasing body of work has concentrated on the spatial and planning implications of religious diversity (Eade, 1996; Gale, 2005; Gale & Nylor, 2002; Kuppinger, 2011; Luz, 2015), the room for exploration of this topic remains wide, particularly for Italy which, so far, remained quite marginal to this debate. That said, the choice to concentrate on the location of religion in urban space is due to both a specific interest for the issue and its particular urban effects, often also harshly emerging in the public arena (Saint-Blancat & Schmidt di Friedberg, 2005), and due to its suitability to be used as a pretext to observe the way in which current Italian planning system responds to the challenges posed by an increasingly heterogeneous population, this also advancing new "claims" for religious space. In short, since "those seeking to create, modify, or reject elements of the built environment must of necessity engage with the planning system of their city" (Fincher et al., 2014, p. 35), and since religious place-making is not an exception to this, then observing the process leading to the formation of new places of worship can offer an effective measure of how the current Italian planning framework – as articulated through the specificities of regional planning legislations – is capable, or incapable, of negotiating citizenship (Mazza, 2016) by accommodating diversity, especially religious and ethnic diversity (Dwyer et al., 2016).

Overall the attention will be devoted to understand how the ordinary unfolding of diversity is managed, approached or even passively contrasted, and not on extraordinary or exceptional situations. This interest with the "ordinary of difference" extends and informs both the way in which this work looks at planning – investigating its shortfalls in their everyday unfolding and looking at the slow and continuous process of spatial adaptation – and the choice of municipalities and groups to consider in the research – more will be said on this when introducing the methodology.

Now that a general overview of the work's aims has been introduced, some more detail on the questions guiding the three papers are provided. As mentioned, the three articles connect to the same core themes, but they nevertheless develop different lines of thought.

The first paper, "The limits of planning: avoidance, concealment, and refusal of religious diversity in northeast Italy" (Chapter 1, solo authored and a version of which is now published in Planning Theory & Practice) is concerned with understanding if planning, in how it is currently configured in Italy, can be up to the challenge of accommodating diversity. In order to explore this, the paper develops around two main questions. First it asks *what strategies are currently mobilized by local administrations to maintain unvaried the current religious homogeneity of the cityscape and to respond to the claims advanced by religious groups? How do these strategies involve planning?* This is a (composed) explorative question that serves to set the ground for the rest of the analysis by shedding light on the way administrations, through their planning offices, are (or fail to be) responsive to the changing demands coming from an increasingly plural society. While some works have already inquired into the way in which demands coming from religious groups are handled by administrations, this topic, especially in Italy, has rarely been the object of systematic research. Outside larger cities, the everyday relevance of planning in articulating a response to religious claims for space has remained largely unexplored.

Once this premise has been addressed and it has thus been explained how public administrations tend to favour a homogeneous urban landscape, the paper then questions whether *is it possible to identify structural limits of planning enabling these (regressive) strategies to unfold?* Although in other spheres, "the dark side of planning" (Yiftachel, 1998) has been more clearly delineated with regard to religious diversity, the issue has been touched on but has not yet been explored in its full potential; again, Italy remains particularly marginal in this debate.

The second paper, "Stories of mosques out of place, planning beyond the ideology of use conformance" (Chapter 2, solo authored and presented here in its long version) moves from what is argued in the former paper and inquires how planning is involved in the spatial translation of the legal category of religion. Instead of questioning what role planning should have in accommodating religion, it provocatively asks: *should we keep talking of the need to accommodate (plan for) religion?* Implicit in this question are other sub-questions: *what idea of religion is imprinted in space and through what tools does the imprinting occur?* And, thus, *is it possible to accommodate religion if exiting the legal category of religion?*

While several authors (Asad, 1993; Cavanaugh, 2009; Sullivan, 2005) have highlighted both the fragility and the sensitivity of religion intended as an independent and immanent category, such considerations have rarely (Berg, 2019; Manouchehrifar, 2018) been relevant to urban studies. What this work explores is the potential of embracing a paradigm shift in which religion, as a category, is

deconstructed and is no longer used in planning practice. As a result of this theoretical exploration the final part of this paper proposes to abandon a kind of planning based on the ideology of "use conformity", thus grounded on abstract and essentialized categories (as religion) in favour of a more relational kind of spatial regulation based on concrete, external and negotiable categories (as noise or traffic)

The third paper, "The (sur)real space of the law: effectiveness beyond mere compliance" (Chapter 3, co-authored with Francesco Chiodelli and currently under review in Transactions of the Institute of British Geographers) widens the perspective characterizing the first two chapters and asks; *is our understanding of the working of law apt for the analysis of complex urban phenomena?* And if the answer is negative, *can we enhance our analytical skills by gaining a more accurate understanding of the ways law is effective and of the relation linking law to spatial conditions?*

This paper – introduced by an 'intermezzo' which clarifies its continuity within the thesis rationale – is characterized by a strong theoretical approach. The paper moves from a certain uneasiness with the limited analytical possibilities allowed by the dichotomy compliance/non-compliance that is ordinarily used to describe the relations between behaviour and the law. In observing the complex process subsumed in the realization of places of worship (or even in the use of pre-existing spaces for religious ends), it became clear that the categories of compliance/non-compliance, whilst relevant, are insufficient to describe the nature of these spaces or to understand how law is relevant to their formation. In the cases examined in the course of this Ph.D. research, the law did not seem to be merely complied with, but rather it seemed to be inhabited and actively up taken by society. Since urban studies literature did not seem to provide some readily walkable path to grasp this complexity, the paper addresses this gap by using tools borrowed by legal geography and from the philosophy of law, thus opening to the possibility of a more sophisticated investigation of the spatial effectiveness of rules.

## *2. Navigating the literature(s)*

As argued above, the three articles can either be read as responding to a shared objective or as independent pieces of work, with each responding to different research questions. The literature used as a reference, and the way it is mobilized, resembles this two-level structure. Although constantly maintaining an eye to planning, and to the discussions on the role it plays in the accommodation of (religious) diversity, other bodies of literature, especially critical legal geography and critical secular scholarship, are drawn upon to bolster the planning theoretical framework.

Literature, however, should not be understood as passively resembling a pre-ordained structure but instead as an active piece constructing it. Literature works as a *fil rouge*: each time we pass from one chapter to the next, we leave behind some pieces and take with us some new ones (for a schematization see Fig.1 at the end of this

section); the relative relevance of each piece varies depending on the paper. The next three paragraphs, the one on planning being the lengthiest, will briefly introduce the main references

### *2.1 Planning (or not) for the city of difference*

In 2005, Fainstein wrote that diversity had become "the new orthodoxy of city planning" (p. 3). Although this is probably truer of planning theory than it is of practice, such a statement remains indicative not only of how the ideal of the "city of difference" (Fincher & Jacobs, 1998) has progressively become "mainstream" but also of how, often, such heterogeneity is expected to be not only accepted but actively favoured through a "responsive" way of planning. In effect, with the failure of the modernist ideal of planning for all (Thompson, 2003) we have seen, at least since the early 1990s, an increasing number of authors gaining awareness of the way the discipline had been (and continues) contributing to the marginalization of particular groups (Sandercock & Forsyth, 1992; Dunn, 2004; Thomas, 2000) by limiting the possibility of accessing citizenship, here meant as the possibility of enjoying political, civil as well as social rights (Mazza, 2016). This awareness on how "the institutions and planning processes were not designed with 'difference' in mind" (Burayidi, 2003, p. 270) has been accompanied by important discussions, on the one hand, of an analytical type, uncovering how dominant values are embedded in planning practices (Sandercock, 2000) and, on the other hand, of a normative kind, advancing possible proposals so to change these practices and contribute to the creation of a more inclusive and fairer city.

Whilst the fact that planning, far from being value-free (Klosterman, 1983), incorporates and spatializes dominant and historically rooted biases which – willingly or unwillingly – end up disfavouring some parts of the population (Qadeer, 1997) seems encountering a transversal agreement, the same cannot be said of the way to get beyond this, in order to make the city be more inclusive. Planning theory offers various alternatives. I will present here three positions differing in the role and ethical responsibilities assigned to planning and planners. Although not all of these positions make open reference to contexts of cultural/religious diversity, nevertheless I believe they can be of interest in addressing such issue, in particular for the different nuances with which they discuss the relation among planning and politics. The goal is not to exhaust the topic but, more modestly, to organize the information in such a way as to guide the reading of this dissertation.

*Politic of Difference.* This first group includes authors mostly coming from an anglophone background, especially from Canada and Australia (Burayidi, 2000; Fainstein, 2005; Sandercock, 1998, 2000). Being critical of the current procedures used in planning, they argue that the discipline needs to be renovated, starting from planners' education, so that it will actively favour a multicultural city. They do not simply expose the shortfalls of planning in accommodating diversity, but they ask both planning (as a discipline) and planners (as individuals) to be explicitly and

actively engaged in the realization of a politics of difference (Young, 1990) as opposed to one of assimilation (Dunn et al., 2001). Behind their critique, there is a project, a vision for planning, which requires that one embrace a certain ethic and political agenda tied to multiculturalism. This vision implies trust in the progressive and transformative potential of planning and in the willingness, capability and possibility of planners both to make decisions favouring diversity and to do so even when this requires some degree of independence from elected bodies of representation.

Proposals for practice based on this school of thought range from calling for planners to maintain greater sensitivity to diversity (Burayidi, 2003) to require them to be more active to support the struggles of some group, this –in these authors view– might require the adoption of different solutions for different groups (Sandercock, 1998); greater flexibility and a focus on communication skills.

*Dark side of Planning.* This second group includes authors (Flyvberg, 1996; Mazza 2002, 2009; Yiftachel, 1998) that, although sharing with the first several criticisms toward the way planning operates and the consequences it provokes, differ in the kind of responsibility they attribute to the discipline and to its practitioners. To these authors planning is primarily a public exercise of authority (Moroni, 2020), if it provides a grammar; our elected political bodies provide planning's legitimacy and power (Yiftachel, 1998), and it is therefore politics which provides the logic (the agenda) for action (Mazza, 2009).

In this understanding, whatever the preferences of planners, most decisions remain substantially "political in nature" (Germain & Gagnon, 2003). Here planning is not necessarily interpreted as a benign force but as one that, being at the service of the state apparatus works as hinge among the political sphere and the use (production and consumption) of space (Rivolin, 2008) and must then be analysed, keeping in mind its constant dependency on a principle of authority (Mazza, 2002). This also implies recognizing planning's "dark side" (Flyvberg, 1996; Yiftachel, 1998), meaning its tendency to favour regressive and conservative spatial arrangements both when the regulative functions of planning are prioritized over its strategic or design functions (Rivolin, 2017) and whenever required by political projects.

*Minimum interference.* There is finally a third group of authors (Ellickson, 1973; Coase, 1960; Needham, 2006) who argue that the role of planning should either be reduced (Ellickson, 1973) or rebalanced (Needham, 2006) by accounting for how the application of private law can, at times, be preferable to state intervention through public administrative law (of which planning is an expression). If compared to the previous two, this group refers more clearly and systematically to the legal and economic implications of planning and its techniques, and it is considerably less engaged with discourses explicitly centred around a politics of difference. Nevertheless, since works of this type generally look closely to the tension arising from different interests (and rights) in land, and since the emergence of conflicting claims over space is ultimately the very reason why diversity is relevant to planning in the first place, it is worth considering the insights coming from this literature also

for the analysis of phenomena that generally fall out their traditional field of application – as for instance the accommodation of "minority" places of worship.

As exemplified in Fig.1, the debate synthetized here is central both to the first and second papers. The third paper, instead, does not directly refer to it, but touches on a transversal issue asking when and how planning can be considered effective. In order to discuss this point, the paper draws on literature on paradigms of plan making (Albrechts & Balducci, 2013; Faludi, 1989; Loh, 2019) and informality in urban space (Chiodelli & Moroni, 2014; McFarlane & Waibel, 2012; Roy, 2015).

Before moving to the paragraphs related to critical legal geography and critical secular studies, a final comment on this should be added. Quite often the first group – outlined here under the title of "politics of difference" – and , although in a different way, some authors of the second group (Yiftachel, 1998) – identified by the label "dark side of planning"– are considered, with different nuances, to be "critical" or "insurgent" (Miraftab, 2009). This is to underline their efforts in denouncing disbalances in power relations, as well as consequent inequalities and injustices (Brenner, 2009). The latter of these groups, described after the title of "minimum interference" is instead frequently understood as "liberal", often blamed for having excessive trust in the market and private law mechanisms, which allegedly leads it to favour the powerful. Here I deliberately chose not to use this terminology; the reasons for this decision are better explained in part 5 of this introduction. I anticipate, however, how the critical/liberal divide seemed to me of little help in the analysis of the condition of religious diversity in Italian cities. The approach is therefore consciously transversal; the groups delineated above should thus not be understood as incompatible, but instead as emphasising equally plausible deficiencies of planning.

### *2.2 Placing the law: Critical legal geography*

The second body of works having considerable relevance to this dissertation, especially to the second and third papers, are those traceable to critical legal geography; they include heterogenous contributions (Delaney, 2015) that, from different perspectives, aim at revealing the often unseen (Blomley, 2003) connections among law and space.

This area of research developed out of the movement of critical legal scholarship, which clearly rejected an autoreferential understanding of the legal sphere in favour of an open one, where the law acquires significance because of its double-edged relation with society (Friedman, 1975). Being critical legal geography a relatively new "specialization" and being it characterized by a strong reach for interdisciplinarity, it is hard to recognize clear tracks of research or alternative schools of thought. It is, however, possible to outline three broad (and interconnected) kinds of questions that works in critical legal geography are interested in exploring. The former (Bennett, 2016; Delaney, 2003; Layard, 2010) regard how "entities such as the home, the corporation, the environment (…) are legally constituted and reconstituted" and how they are "made meaningful in distinctively legal ways" (Delaney, 2015, p. 98). In

other words, scholars working on this try to uncover how physical places of everyday life are not only significant as such, but because of how they are inscribed and sustained by specific legal frameworks in the absence of which they would probably either look different or even cease to exist. Brought to the extreme, this line of thought indicates how law not only "takes place" but more radically "makes place" (Bennett, 2016).

The second (i.e. Blomley, 2020; Brighenti, 2010; Waldron, 1991) is instead concerned with questioning how law controls access to and movement across space and in showing the impact of such types of legal-spatial control on the life and possibilities of particular groups. It is the aim of many works to expose how 'bold', deeply grounded legal structures, as for instance the way in which the institution of private property (Blomley, 2020), impact in non-obvious ways the lives of some parts of the population (Waldron, 1991).

The third question is transversal to the former two and is more theoretical, it largely remains implicit without being fully developed and asks, what kind of logical relation exists between law and spatial phenomena, or "what is the exact nature of the law-space nexus" (Blomley, 1989, p. 526)? When, how and to what extent can we say that something is the way it is because of law, and thus convincingly argue how law is having some (spatial) impact (Friedman, 2016)?

To help in answering this question, which is fundamental to paper three, some support comes from philosophers of law of the Italian school (Conte, 2000; Fittipaldi, 2013) who write on the concept of nomotropism, literally the idea of acting in-light-of (because of) the existence of some law without which an action (or some space, as for instance, a place of worship) would have been different.

### *2.3 Where and what is religion? a view from geography of religion and critical secular scholarship.*

Lastly, and more specifically related to the issue of the accommodation of religious diversity, reference is made to research explicitly concerned with religion. Here two kinds of literature are considered, the former – new religious geography – is explicitly concerned with understanding how the location of religion occurs (Knott, 2005) in and outside the officially sacred (Kong, 2001), whilst the latter – critical secular scholarship – questions what religion is in the first place and whether we should keep talking of it as an immanent category. If the former develops out of a spatial turn characterizing the social sciences, including religious studies, and therefore explicitly uses space as a lens to read religious phenomena, research in critical secular studies has often privileged a – maybe more traditional – historiographical account and only quite rarely has been connected to geography or urban research. Both these literatures have experienced important growth in the last decades and while it remains impossible to provide here a full account, some key directions can be drafted.

"New geography of religion", of which Kong (2010) and Knott (2008) are surely some of the main exponents, has its core in a few concepts. First, space is relevant to the study of religion not only as a static and fixed dimension but as a significative variable; this means that space and place actively affect the way religion is experienced (Knott, 2005). Second, and relatedly, religion shapes space and it should therefore be considered, along, for instance, with ethnicity or sexual orientation, as a force that makes place (Kong, 2001). The two points, if read together, outline religion as a dynamic element which should be considered in its contextual specificity. Third, new geography of religion acknowledges the existence of a politics of the sacred (Kong, 2001). This means that sacred places are understood "as arenas in which power relations can be reinforced" (Chidester & Linenthal, 1995, p. 16), they are not "merely 'given' in the world" but are instead "always claimed, owned, and operated by people having specific interests" (p. 15). From this perspective, places of worship fully qualify under the umbrella of what Holston had identified as "places of insurgent citizenship" (1998). One of the main insights for urban studies coming from this body of works is how "theories of urban space and society must take on board the ways in which socially constructed religious places overlap, complement or conflict with secular places and other socially constructed religious places in the allocation of use and meaning" (Kong, 2001, p. 213). Given the explicit concern for how religion takes place in, and interacts with, space, should then be of no surprise that this literature has functioned as an important reference for researchers in urban studies, urban sociology and neighbouring disciplines (Burchardt, 2019; Dwyer et al., 2016; Dunn et al., 2001; Gale, 2009; Garbin, 2013; Kuppinger, 2014).

The same cannot be said for the second body of work, that of critical secular studies. This is rarely introduced to the literature in urban studies (Berg, 2019; Manouchehrifar, 2018; Nye, 2001). Although sharing some general ideas with the "new geography of religion", as, for instance, a porous and dynamic vision of religion, it is more traditional in its methodological approach and more radical in the message it delivers. Critical secular scholars (Asad, 1993; Fitzgerald, 2007; Nongbri, 2013) are essentially concerned with the deconstruction of the very same idea of religion and they challenge its embeddedness in common sense. Following Asad (1993), critical secular scholars reject the idea of religion as an imminent and universal category and instead show how it is a modern European concept that is co-dependant (and not alternative) to that of secularism; in other words, neither the religious nor the secular can exist without the other, so secular states that claim independence from religion often, and counterintuitively, become embedded in the regulation of religious expression "to an unprecedent[ed] degree" (Mahmood, 2016, p. 2).

Critical secular scholars stress that the possibility of defining something as "religious" (and regulating it accordingly) should imply the ability to define what is "not religious" (Nongbri, 2013; Cavanaugh, 2009); however, to draw this line of separation is generally much harder than expected, and at times it is impossible. Evidence of this admixture, far from being of mere theoretical concern, can be seen in different practical situations. For instance, the Lautsi vs. Italy case in front of the

European courts of human rights has shown how the crucifix can be alternatively interpreted as a "religious" or "cultural" symbol. Similarly, Sullivan (2005) reports of a case where distinguishing what was to be considered a religious ornament in a cemetery and what was not, led to a lengthy legal argument which convinced her of the "impossibility of religious freedom". On the same line, Nye (1998) shows how determining what is religious and what is not has been largely used in UK to grant or refuse possibilities to different groups which were asking for similar access to space for prayer.

As will be discussed in paper 2, this deconstruction of the very same category of religion can have, if taken seriously, important implications for planning practice which, accustomed to work with rigid classes of use, tends to imprint over space cultural and legal categories without sufficiently accounting for the meaning and implications of this "worlding" process.

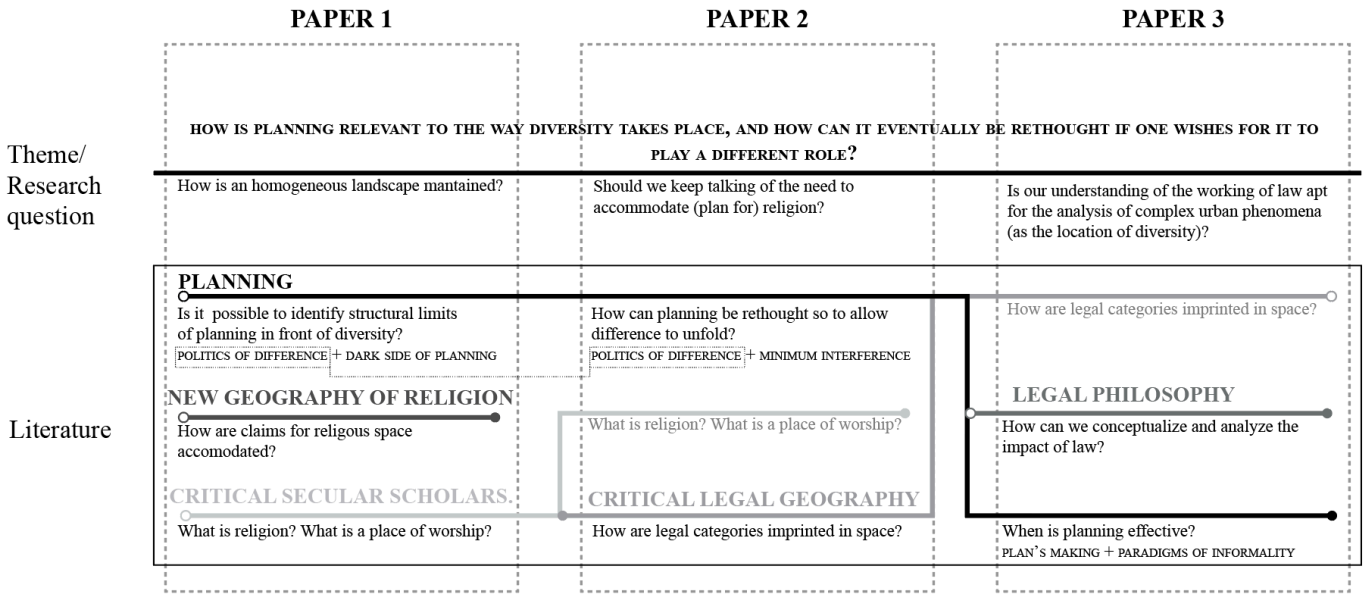



*Fig. 1 – Thesis structure, research questions and relation with main literature*

## *3. Italy and Veneto: Looking at the context*

The three parts composing this dissertation have all been written on the basis of research that was pursued in Italy and more specifically in Veneto, a region in the northeast. The choice for this research location lay in demographical, political and normative factors. Each of the following paragraphs will first introduce the national framework and then narrow their view to the specific conditions of the Veneto region.

### *3.1 Demographic factors*

In Italy, religious demography started only recently to considerably diversify. Even if Catholicism continues to constitute the main religious reference yet the increasing mobility of people, the emergence of new religious movements, and an ongoing – loosely defined – process of secularization are all factors that contribute to change the religious horizon of reference. They make it problematic to keep talking of religion in the singular; making more appropriate to speak of religions in the plural.

In the absence of official records on religions, estimates of the number of believers greatly rely on the countries of origin of foreign residents. In this sense, Italy went through a very fast change: in 1981, non-Italian residents were only slightly more than 200 thousand, making up 0,35% of the population. By 2020, they now number more than five million, constituting about 8,7% of residents (ISTAT, 2020) (Fig.2). Romanians represent about a quarter of all migrants, followed by people from countries as different as Albania, Morocco, China, Ukraine, the Philippines, India, Bangladesh, Egypt, Pakistan (Fig.3).

These countries make up more than 60% of the overall foreign population in Italy. Of course, religious belief cannot always be mechanically inferred from national origins or citizenship; for instance, such a perspective does neither account for converts nor for those who acquired Italian citizenship (amounting to more than a million people in the last decade). Nevertheless, statistics can still be useful to grasp the magnitude of the phenomenon. The largest groups of non-Catholic believers are Muslims (mostly Sunnis) and Orthodox Christians. Muslims make up over 1,6 million, representing about 30% of foreigners in Italy, while Christian Orthodox are a close second, with a population of about 1,56 million (ISMU, 2019). Among the religions with lower presences but still growing very dynamically are Evangelical/Pentecostal groups, whose members are estimated to be about 183 thousand, followed by Buddhists (136 th.), Hindus (114 th.) and Sikhs (49 th.).

In terms of religious buildings, despite the size of the Muslim population in Italy, there are fewer than ten purposely built mosques; all of the other Islamic places of worship (no less than 650) are differently labelled as ‘cultural centres’ or ‘headquarters’ of NGOs or other kind of associations; the great majority of these occupy apartments, former commercial spaces or warehouses that have been adapted for religious use in absence of formal planning authorization and only making minor internal changes.

The situation of the Christian Orthodox population is slightly different: there is no official estimate of the number of properly built churches, but even when they don’t manage to have their own space they are often hosted in Catholic buildings. In this case, they also tend to make interior changes.

Overall, and allowing for a few departures, Veneto’s demographics appear quite coherent with this national framework. In the region, about 4.9 million people live scattered around 563 municipalities, the largest of which is Venice, the regional capital, with slightly fewer than 260,000 inhabitants. Beginning in the 1980s, Veneto

became a particularly attractive migration destination due to its economic wealth. Dependent on a productive system that has been labelled as "third Italy"[1], foreigners have been widely employed as a labour force both in industry and agriculture in the numerous firms that are distributed across the plains part of the region.

In 2020, non-Italian Veneto residents number about 500,000, comprising about 10% of Veneto's population, and an additional 100,000 have acquired citizenship in the last decade. Commonly represented nations of origin include Romania, Morocco, China, Albania, Moldova, Bangladesh, Ukraine, India, Nigeria and Sri Lanka. The sum of these make up about 70% of the region's foreign population.

Approximately 134,000 Muslims live in Veneto, along with 170,000 Orthodox Christians (ISMU, 2018); some areas also have a substantial number of Sikhs, with over 6,000 in Vicenza Province (Migrantes Vicenza, 2016); and, as elsewhere, Evangelicals are increasingly represented.

No official mosque or gurdwara has been built, though a few Orthodox churches are currently under construction.

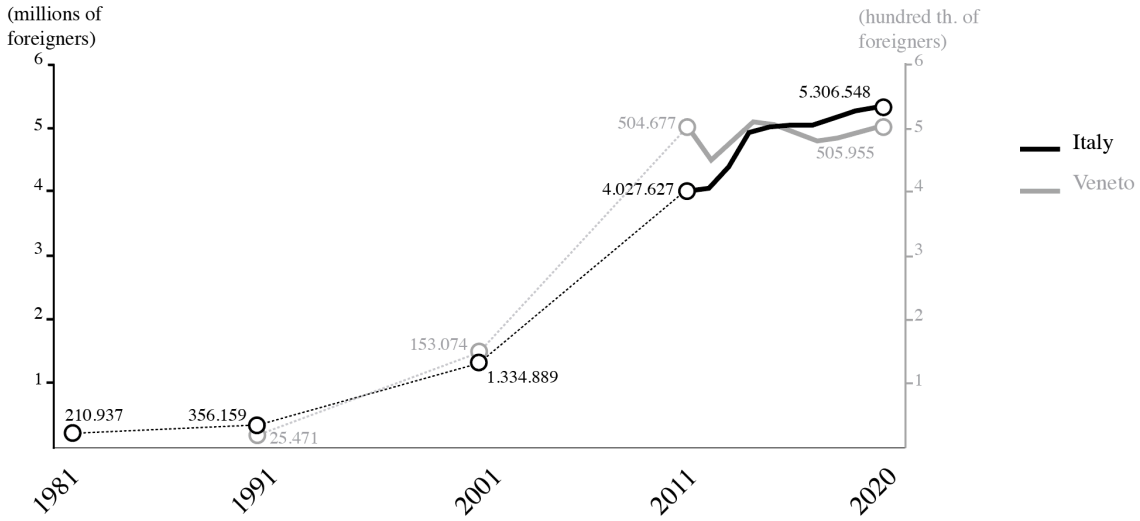



*Fig. 2 – Foreign Population 1981-2020: Italy and Veneto (elaboration on ISTAT data)*

[1] The name "third Italy" distinguish an economic model based on medium\[ and very small-sized industries both from the agricultural areas of the South and the big industries of the North-West.

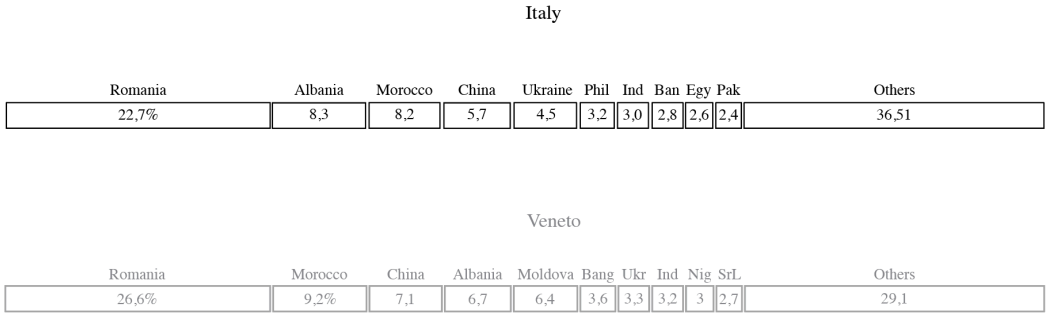



*Fig. 3 – Foreign Population per Nationality 2020: Italy and Veneto (elaboration on ISTAT data)*

### *3.2 Political factors*

The issue of both ethnic and religious diversity has gained in Italy a prominent place in public discourse in the last few years, and it has functioned as a propaganda tool (Geddes & Pettrachin, 2019). Discourses over diversity and migration tend to be strongly polarized with, on one side, a conservative, strongly identarian right claiming for the need to close the nation's borders, continuously attacking both migrants and foreign-settled populations in the name of slogans such as "Italians come first" (Fig.4), and, on the other, a weak "left" that although discursively supporting a multicultural horizon, seems incapable of convincingly articulating it.

Although this polarization had continued for some time, it was probably during the last national and European elections (2018 and 2019) that it had its peak. On these occasions, the identarian party Lega Nord, led by Matteo Salvini, built – and won –its campaign by stressing the necessity of more security which, in its view, had to be reached by limiting the possibilities for immigration. Foreigners were continuously characterized as law breakers. "Uncontrolled" migration and "illegal" migrants became a fundamental piece of nationalistic and sovereigntist discourses, based on a rigid understanding of both "culture" and "religion". A certain religious resurgence in public discourses could also be observed; Catholic symbols and claims were frequently instrumentally mobilized so that it was, and still is, common to see political leaders kissing the crucifix during public speeches (Il Sole 24 ore, 2019)[2] or proudly revendicating their Christian roots (Il Fatto Quotidiano, 2020)[3]. In this escalating

[2] Retrieved from https://www.ilsole24ore.com/art/salvini-impugna-rosario-affidare-maria-futuro-paese---ACqSJ7I?refresh_ce=1

[3] Retrieved from: https://www.ilfattoquotidiano.it/2020/11/18/meloni-dalla-parte-di-polonia-e-ungheria-che-bloccano-gli-aiuti-per-la-crisi-difendono-identita-cristiana-e-confini-da-immigrazione-ma-i-rilievi-ue-sono-sullindipendenza-d/6007925/

climate of hate, which, more or less, targeted all those that were not identified as the bearer of some allegedly well-defined Italian culture, Muslims have often played the role of scapegoats. Not only were declarations such as, "Islam is incompatible with our constitution" (Salvini, 2018) in everyday use, but they rest on a history of even more "picturesque" performances, as, for instance, the one during which – back in 2007– some exponents of the Lega Nord carried a leached pig on the site where a mosque was thought to be built in Padua (Veneto); this was done with the intention of desecrating the site (Fig. 5).


*Fig. 4 – Matteo Salvini during a National rally (source: Huffpost)*

*Fig. 5 – Members of the Lega Nord party walking a pig on a Mosque future site in Padua, Veneto (source: Pressreader)*

In effect, in some ways, Veneto preceded Italy in the adoption of this conservative political trend. Traditionally known as the 'white Veneto', with 'white' indicating the Christian Catholic orientation, Veneto was considered a voting reserve for the Christian Democracy party (DC), a political group that guided Italy from the post-war period up to the 1990s with substantial continuity. After the end of the DC-era, Veneto –with its local branch Liga Veneta– became the voting reserve of the Lega Nord Party, granting it almost the same percentage of votes it had ensured for the previous party, i.e. above 40% of the voting population (Guolo, 2010)[4]. The Lega Nord Party was in fact born with the idea of uniting the secessionist groups of northern Italy, and it initially engaged in the creation of a neo-pagan identity, loudly asking for independence from Italy.

However, and although independence in Veneto remains a prominent point in the agenda, once the party grew and engaged with the national polity, it understood that the neo-pagan symbolic reference was not strong enough in a country that was impregnated with Catholic uses, groups and symbolism. With this new understanding, Lega Nord (even if with different levels of belief among periods and members) articulated its identarian aspirations through an instrumental use of Catholicism; it built explicit collaborations with part of the Catholic groups (those opposing the outcomes of the Second Vatican council) while harshly attacking those members of the Church who worked in ecumenical directions (Guolo; 2010). On the other side, the Party engaged in a crusade against the "Muslim invasion" and in 2016 it was the first (but not only) promoter of a regional norm that is colloquially known by the name of the "anti-mosque" law (Bonet, 2016; Pietrobelli, 2016).

### *3.3 Legislative factors*

Since the legislative framework characterizing both Italy and Veneto will be presented in detail both in the first and second chapters, and recalled once again in the third one, and since the points of interest vary accordingly to the specific theme addressed by the chapters, then this part of the discussion will not get into details. It only provides enough information to understand why Veneto appears as a relevant laboratory not only from a demographic and political perspective, but also for the legislative aspects which characterize this region. With this in mind, this section presents how legislation regarding freedom of religion (of national competence) intersect with Veneto's regional planning legislation.

One of the central features that should be acknowledged when approaching the issue of location of religion in Italy is that although the constitution asserts that everyone should be free to practice their beliefs in individual and collective form (Const. Art. 8 and 19), including the possibility of any faith to use or realize a dedicated place of worship, this freedom needs to unfold within the limits of what is

[4] In the last 2020 regional elections, Luca Zaia the regional governor now at its second mandate runned indipendently from the Lega Nord (to which he was traditionally affiliated), gaining over 75% of the regional votes.

determined by spatial regulation (Cc sent. 67/2017). National planning law 1444/1968 categorizes religious spaces as collective facilities, it means that areas to pursue religious activities should be made available to the population as 'urban standards', that is a minimum quantity of area per inhabitant to be devoted to uses of public relevancy (i.e. green, parking, education, worship). Against this backdrop, the responsibility to further define what a religious building is, and to determine if, how and where it can eventually be realized rests upon regions and municipalities and no other references are provided at the national level. It goes without saying that both regional planning laws and local land use plans have in time become fundamental to "arrange" religion in space. In fact, although footage quantity of areas to be dedicated to religious facilities is not specified at the national level (which only requires an area of 2 sqm per inhabitant for collective facilities) more specifics can be given at the regional and local level. For instance Veneto repealed planning law (LR 61/1985) rose the quantity area for collective facilities to 4 sqm per inhabitant and specified how, of these amount, 1 sqm (1,50 in larger cities) had to be dedicated to religious uses. Differently, the more recent regional planning law LR 11/2004 (currently in force) avoids to make any reference to minimum quantities to be dedicated to either areas for collective or religious facilities and only sets 30 sqm as the minimum area for public standard per theoretical inhabitant (art. 31). In this context local masterplans, which are composed of two main documents – a structural one updated every ten years and responsible for inventorying and envisioning new potential areas for settling public facilities, and the other operative, to be updated every five years and responsible for the factual of those facilities – display a range of different approaches. For instance in Venice the plan[5] continues to makes reference to the previous planning law and explicitly requires 1,50 sqm of religious facilities per inhabitant. In Padua the plan[6] does not make any explicit reference but considers the same quantity of 1,50 and calculates how available standards for religious facilities in each homogeneous area (A.T.O) currently range from 2,70 sqm to 2,90 sqm. Differently, Thiene masterplan[7] refers only to collective facilities without any specific on religious ones, and the plan in Verona[8], makes only refence to 'standards' with no other detailing.

If then is undoubtful the relevance of local planning to determine the nature (through definition in regional planning laws), quantity, and location of religious facilities (through local plans) it is also necessary to underline how in the last decades this power was, to a certain extent (and unwillingly), reduced by a norm[9] (Ll 383/2000 art. 32, later Dlgs 117/2017 art. 71) mandating how private circles managed by associations for the socio-cultural enhancement (APS) can settle in any kind of

[5] Variante al Piano regolatore per la città antica, Relazione- standard urbanistici ai sensi degli articoli 22 e 25 della L.r 61/1985 (approved in 2001)
[6] Piano di Assetto del Territorio (PAT). Relazione (approved in 2014)
[7] Piano di Assetto del Territorio (PAT). Relazione Generale (approved in 2011)
[8] Piano degli Interventi (PI). Relazione Programmatica (approved in 2011).
9 Throughout this work the terms norm, rule and law will be used as synonym

building in any area, even in derogation of land use. Whether officially this law does not refer to religious uses, many saw in it a possibility for such. As a consequence, a large number of religious groups (both in Veneto and other regions) began registering as APS, then converting former warehouses and commercial spaces into cultural centres used for prayer as well as for other collective activities.

This trend experienced a lot of opposition so that Lombardy Region, first, then followed by Veneto and Liguria, approved variations to their regional planning laws so as to limit the spread of such kind of usage.

Veneto, in particular, approved law LR12/2016. First, this extends the definition of place of worship to any building used for religious intent; second, it sets out criteria for the location of places of worship: for instance, they include "appropriate" distance from other religious buildings, "appropriate" parking space, as well as harmonization with the landscape. Although mandatory, in the law these criteria are phrased in very vague terms. There is therefore a double movement: on the one hand new requirements have to be met so to be able to use or realize a place for religious ends yet, on the other hand, such requirements can be adjusted with wide margins of discretion, potentially allowing both for a more conservative or a more permissive interpretation. Despite the theoretical possibility to use the law in a direction of openness, yet it is necessary to underscore how it is quite established (Marchei, 2017) how the rationality behind the law approval was one of closure rather than one of openness. Among other things this interpretation is also confirmed by the fact that LR 12/2016 introduces new requirements only for religious facilities and not for other collective facilities as well, by the fact that religious groups who wish to dispose of a space are required to subscribe an agreement with municipalities to ensure they will uphold their duties and, further, by the fact that municipalities are allowed to hold a consultative referendum so as to leave the possibility of disposing of places of worship up to the popular consensus. In short, and at a very prelaminar level, it is possible to argue how the approval of law LR 12/2016, even independently from its eventual impacts, formalizes an already ongoing discursive shift which sees religious facilities, and especially those used by minority ethno-religious groups, being as conceptualized as problems to be regulated rather than as assets to be ensured.

Further on, the law has been clearly designed and written while having in mind the willingness to limit the possibilities of Muslims to settle in the area; for this reason, it is discursively named the "anti- mosque" law. However, despite this clear intent, it has been carefully phrased so as to conform with constitutional requirements –thus in such a way to remain general, only broadly referring to religion but avoiding mention of any specific group – this means that it could potentially affect anyone willing to access a space for religious use, de facto making close to impossible the use or realization of a new place of worship, especially if requests come from "unpopular" minorities.

To recap, in short, the characteristics making the Veneto Region suitable for this study are (1) the presence of a regional norm explicitly targeting the realization of places of worship approved in the wake of local controversies that were already in

place; (2) a recent political history in which religion played a major role; (3) the consistent presence of foreign and non-Catholic populations spread among different large and small-medium centres and the relative scarcity places of worship.

## *4. Research design and methods: organization, challenges and potentials.*

This research is a qualitative work extensively based both on primary and secondary material. The choice to favour qualitative methods is both due to the lack of organized data on the subject (as already touched on in Part 3 of this introduction) and their better suitability to inquire into the types of questions this dissertation is concerned with – namely, how is planning relevant to the way religious diversity takes place. This necessarily requires a close-up look which could not be gained through the analysis of aggregated data. Also, the suitability of qualitative methods is confirmed by their wide application in the research of authors interested in the location of diversity, in particular religious diversity (see, for instance, Kuppinger, 2011; Luz, 2015; Saint-Blancat & Schmidt di Friedberg, 2006). The few works favouring a more quantitative angle (Peach, 2001) have been pursued in countries – such as the UK– where data on religious belonging are systematically collected at the national level through the census, this providing a uniquely solid base for analysis.

Overall, the research design is circular. In the preliminary phase, secondary material was used to set the ground and understand what municipalities and local cases were worth considering (see Fig.6). Following that, the first phase (which largely conflated in the writing of the first paper) was characterized by intense fieldwork conducted in the Veneto region and considering the events as occurring in nine different municipalities. Here, semi-structured interviews (for a total of 34) were central to understanding the way in which administrations were responding (or failing to respond) to new claims over religious space. Site inspections and some participant observation also contributed to gain a more accurate idea of the way religious groups located and organized in the territory. Fieldwork was conducted between March 2019 and December 2019. During that period I lived on site– based among Padua and Venice – for five months, while for the remaining period I had occasional contact with the interviewees, even if from a distance. My staying in Veneto over a prolonged period of time was made possible by the opportunity offered by SSIM UNESCO Chair at IUAV, which welcomed me as a visiting Ph.D. student. An additional three months of fieldwork had been planned starting from March 2020; however, the outbreak of the COVID-19 pandemic made this impossible and I was obliged to radically rethink some parts of the work.

Finally, in a second and more advanced phase (roughly conflated in the writing of the second paper), the research turned to the in-depth analysis of secondary material. Press sources, judiciary sources and planning documents have been analysed so to understand the role that the requirements of land- and building- use conformity were

having on the location of religion. Although most press and judiciary sources were readily available through online consultation I was also allowed access to some additional material thanks to the availability of interviewees consulted during the former research phase.

Of course, operatively these research steps were not as sharply separated as they are described here; a consistent amount of back and forth was necessary. Nevertheless, from a logic and organizational angle, they are better understood sequentially. In fact, although it can appear counterintuitive to have the 'desk work' following the field one this can be explained, first, by recalling how the field work was itself preceded by a preliminary phase which served to screen the variances and potentialities of different local situations; second, by considering the different focus characterizing the first and the second chapter (which roughly correspond respectively to the first and second phase of research). Third, it is also undeniable how the outbreak of the COVID-19 pandemic have hardly affected on the research design. If the initial plan was in fact to write the second paper centred on different cases occurring in the municipality in Venice – hence relying on a wider body of fieldwork – being blocked at home made this impossible and the research was rethought amplifying reliance on secondary material, and thus also widening the spectrum of municipalities and cases.

### *4.1 Municipalities and cases selection*

Both the first and the second phase of this Ph.D. research are grounded on different levels of observation (Fig. 6), which are regional, municipal/local and the one of specific situation of location of religion (cases).

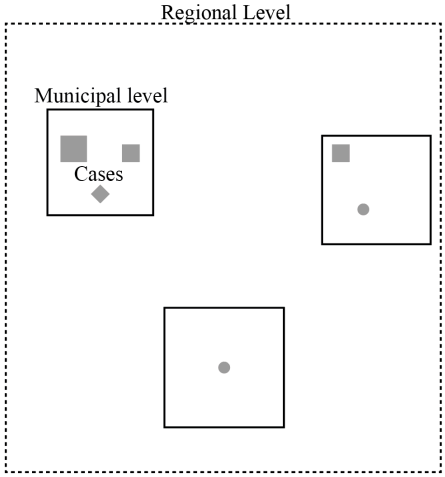



*Fig. 6 – Levels of observation*

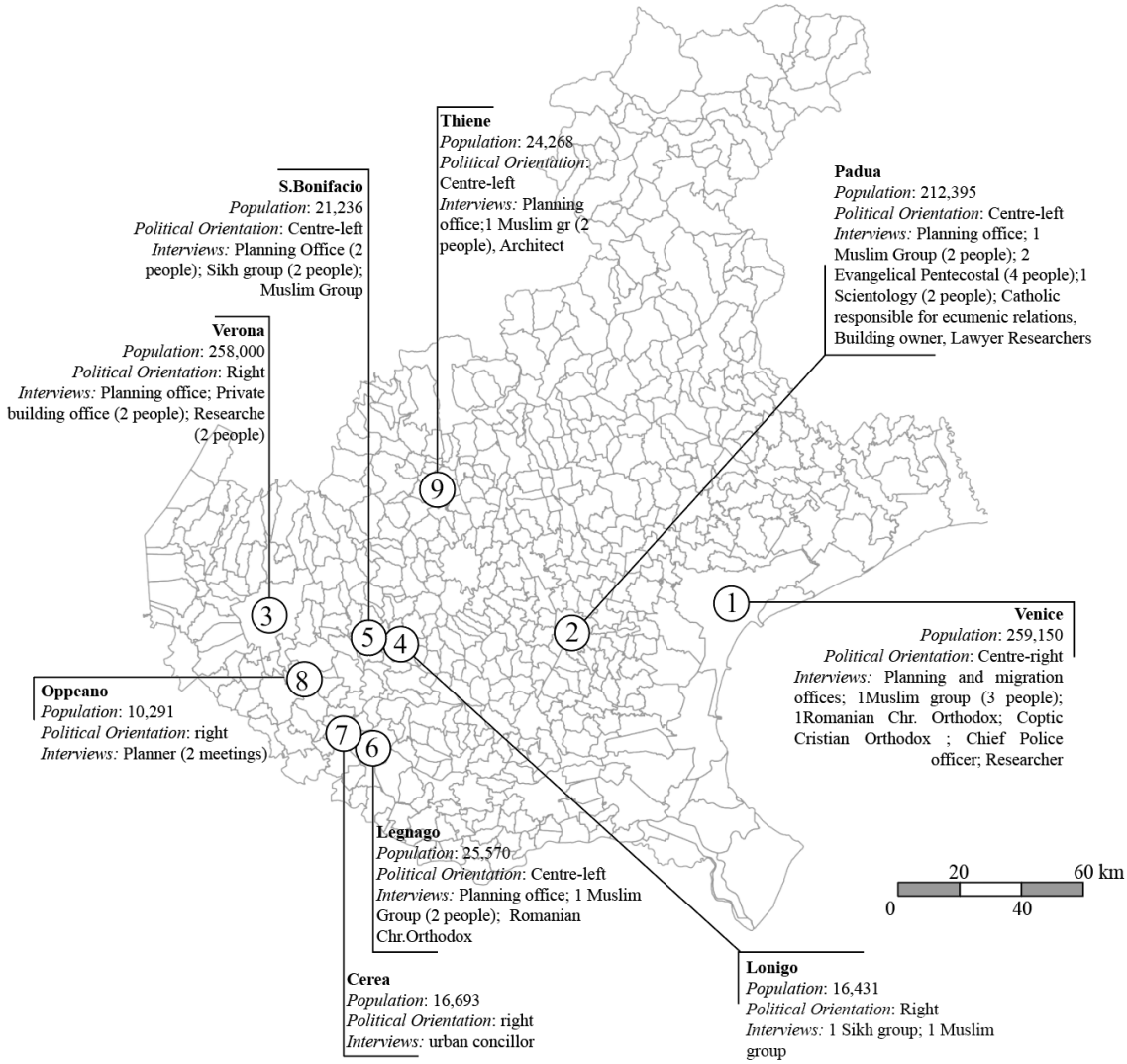
The criteria and methods used to select municipalities and cases have been different depending on the phase of the research I was carrying out. In the first phase – this characterised by intense fieldwork – I had to combine issues of feasibility with the

willingness of maintaining an approach more concerned with the "ordinary" rather than with the "extraordinary" of difference. I then looked for municipalities which I thought could help me to draw a transversal image of how administrations (through their planning offices) respond to new claims over space as advanced by heterogeneous religious groups. The intention was not to pursue comparative research but to look at local contexts that, even if not representative of the totality of possible situations, could "talk" of the different nuances with which planning addresses the issue of pluralism.

More specifically, in this first phase factors influencing the choice of municipalities included presence of situations and cases of interest from a planning/spatial perspective (i.e. ongoing approval of a masterplan; land use controversies over some group location; spatial concentration of religious groups), dimensions, the presence of more than one non-Catholic group (this point was to verify the process of planning in regard to 'diversity' intended as multiplicity and not as presence of a specific faith or group), and political leadership in the municipality at time of the research. Political factors were considered to control whether eventual processes of spatial marginalization were a prerogative of politically conservative parties (as often pictured) or were instead more transversal, suggesting the presence of some structural limits. Finally, nine municipalities distributed across the most populated area of Veneto were selected (see Map 1). They include the region's three largest centres (Venezia, Padova and Verona), hosting over 200 thousand inhabitants, and six medium and small centres (Thiene, San Bonifacio, Lonigo, Cerea, Oppeano and Legnago), which range in size from 3 to 20 thousand. Of these nine, at the time of my research, five were led by right wing parties, while four were led by left wing ones.

Following, and as mentioned above, the second phase was, mostly pursued while sitting behind a desk and analysing secondary material. It relied on an even larger number of municipalities (up to 25 municipalities, for a total of 33 cases) and specifically concentrated on cases of conflict that, with various degrees of intensity, involved Muslims. Here I did not make some particular selection and I considered the totality of municipalities in which I could track cases of controversies over Muslim places of worship occurring in the last decade. The analysis of these cases was possible thanks to the large availability of press and juridical resources (see Table 1 for a synthesis of available secondary material) and, in some municipalities (those already considered in the first phase) thanks to some interviews (see Table 2). This shift from an account considering loosely defined "religious diversity" to one only considering the vicissitudes of a single category – Muslims – is not due to some special planning or legal process involving this group and not others, but rather to the greater frequency and intensity with which Muslims experience those transversal processes which emerged thanks to the fieldwork and are more clearly outlined in Paper 1. This tendency to exaggerate any event involving Muslims (often used as scapegoats), the greater frequency of controversies centred around their location and the large availability of data, were useful – from a research perspective – to more

easily recognize problematic aspects fostered by the current planning framework and thus to elaborate eventual possibilities for change.




*Map 1 – phase 1: location, characteristics, and interviews*

| | | **SECONDARY MATERIAL** | | | | | |
|---|---|---|---|---|---|---|---|
| | | • = available material – = non available | | | | | |
| **Municipalities** | **n. cases per municipality** | **Judiciary/court sentences** (n. of sentences including first and second degree) | | **Planning Material (others than masterplan)** | | **Literature** | **Press review/Public declarations** |
| **Arcole** | 1 | • (3) | TAR 6331/2010 Cons.St. 3534/2012 Affare 1998/2018 | – | | – | • |
| **Arsiero** | 1 | • (1) | TAR 287/2017 | – | | – | • |
| **Arzignano** | 1 | – | | • | | – | • |
| **Bussolengo** | 1 | – | | – | | – | • |
| **Cittadella** | 1 | • (3) | TAR 454/2014 (preparatory material also available) Const.St 5376/2014 Cons.St.1684/2016 | – | | – | • |
| **Cerea** | 1 | – | | – | | – | • |
| **Cornedo Vicentino** | 1 | • (1) | TAR 188/2017 | – | | – | • |
| **Fonzaso** | 1 | • (2) | TAR 707/2014 Cons.St. 6118/2014 | – | | – | • |
| **Jesolo** | 1 | – | | – | | – | • |
| **Legnago** | 2 | – | | • | Records of masterplan approval. | – | • |
| **Monteforte d'Alpone** | 1 | • (2) | TAR 42/2015 Cons.St. 3540/2015 | – | | – | • |
| **Morubio** | 1 | • (2) | TAR 801/2012 | – | | – | • |
| **Nervesa della Battaglia** | 1 | • (2) | TAR 1173/2009 TAR 134/2010 | – | | – | • |
| **Oppeano** | 3 | • (2) | Case 1 (CA' DEGLI OPPI): TAR 1796/2008 Case 2 (VALLESE): TAR 627/2014 (preparatory material also available) | • | Case 1/2/3: Building permits, Cadastral maps, records of masterplan variation. | – | • |
| **Padua** | 2 | – | | – | | – | • |
| **Paderno di Gonzano** | 1 | – | | – | | • | • |
| **San Bonifacio** | 1 | – | | – | | – | • |
| **Soligo** | 1 | • (2) | Cons. Stato 3682/2013 Affare 805/2013 | – | | – | • |
| **Thiene** | 1 | – | | • | Building Permits | – | • |
| **Treviso** | | – | | – | | • | • |
| **Venice** | 5 | • (3) | Case 1 (THE MOSQUE): TAR 667/2011 (Access also to all the preparatory material) | • | Case 3 (VIA FOGAZZARO) : Assembly records | • | • |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | Case 2 (MAD.PELLEGRINA): TAR 286/2019; Cons.St. 2788/2019 | | | | |
| **Verona** | 2 | • (2) | Case 1: TAR 667/2011 Case 2: TAR 357/2017 | - | | - | • |
| **Villorba** | 1 | • (1) | TAR 2347/2005 | - | | • | • |
| **Vittorio Veneto** | 1 | - | | - | | • | • |
| **S.Stino di Livenza** | 1 | - | | - | | - | • |

*Table 1– phase 2: secondary sources considered per each municipality*

### *4.2 In the Field*

Operatively, 34 semi-structured interviews were conducted across 9 municipalities and 3 more interviews involved exponents of the regional council. Of these interviews 9 involved two or more people, leading to a total 47 participants, only one was conducted not in person but by telephone. Among the interviews conducted in the different municipalities, 10 involved employees in local public administrations, 15 were conducted with representatives of religious groups (among these, 6 groups were Muslim, while 8 non-Muslim, and more specifically, 3 were Christian Orthodox, 2 African Pentecostal, 1 Scientology and 2 Sikh) the remaining 9 interviews involved local experts and other relevant figures, including police officers, property owners, lawyers, representatives of the local catholic church, a Biennale art president, architects and other professionals. The material collected in such a way was central to the first paper and it was also used, although in a less extensive way, to integrate the information used for the second paper of this dissertation (Table 2), this more prominently relying on secondary sources. In particular for the second paper the interviews used were those involving experts, planners and Muslim key informants.

| **Municipality** | **Total interviews** | **Interviews useful for the first paper** | **Interviews useful for the second paper** |
|---|---|---|---|
| **Venice** | 8 | 8 | 5 |
| **Padua** | 8 | 7 | 3 |
| **Verona** | 4 | 4 | 2 |
| **Lonigo** | 2 | 2 | 0 |
| **S.Bonifacio** | 4 | 4 | 3 |
| **Legnago** | 3 | 3 | 2 |
| **Cerea** | 1 | 1 | 1 |
| **Oppeano** | 1 | 1 | 1 |
| **Thiene** | 3 | 3 | 2 |
| **TOTAL** | 34 | 33 | 20 |

* Additional 3 interviews involved members of the regional council, whether they did not directly serve to the writing neither of the first or second paper they contributed to my understanding of the general Veneto context.

*Table 2– distribution of interviews per municipality and respective use in the first and second paper*

As for the content of the interviews, employees in public administration were mostly asked to describe how they were accounting for the need for religious space in the planning process, and exponents of religious groups were instead questioned about their process of location, eventual difficulties encountered, as well as needs and hopes they had for the future. Experts were from time-to-time questioned on technical procedures or on specificities of some cases.

When starting this work, I had no previous contact that could help me in approaching either the religious groups or the employees in public administration. Finding a way to gain access, especially of religious groups, was probably the most challenging part of the fieldwork. To build the network of informants I had no other option if not that to contact each of them personally on the ground of preliminary information gathered through secondary sources. Unfortunately snowballing was not of much help for this study: not only planners or other public employee showed reluctant to approach the topic, let alone to indicate others which could bring more information, but even most of religious groups did not seem to be closely communicating among each other, or at least they were not as much confident to be willingly and comfortably introducing me to other groups. The complexity of building the network implied that in many cases, given the impossibility of finding an active contact (as a phone number), it was necessary to go several times to the address where the group was supposedly located (the address was not necessarily correct given the informal nature of many places) so as to initially introduce myself to some random person, then asking for the contact of a key informant (as the religious leader or association president) so to be able to ask, in person or by phone, their availability to a meeting. Especially when dealing with Muslims, this was a particularly slow process since, frequently, the possibility of releasing an interview had to be discussed among the association members, only after their representatives would agree to the meeting. Most encounters occurred in the prayer rooms that were used daily by the groups; this also allowed me to do in-depth site inspections and some participant observation (being invited to participate in the religious function or other collective activities) (Fig. 6 to 9). The interviews were generally held in Italian, only in one case (with an African Pentecostal group) the interview was in English; in two more cases (with two Muslim Imams), a simultaneous translation from Arabic was required. The translator was generally another member of the Muslim group. Given the structure of most religious groups, most meetings exclusively involved male interviewees; only on three occasions (one Muslim, one Scientologist and one Sikh) was I able to interact with women, although I occasionally felt uneasy, this gender difference did not seem to constitute an obstacle of any kind.

As anticipated, employees in urban offices were also difficult to reach, though in a quite different way. Especially in larger centres, they seemed to be answering directives which required them not to talk about the issues I was interested in, which might have been considered too politically sensitive. This reticence emerged in several ways: for instance, the lengthy time they took to reply to my repeated requests for an appointment (to meet one planner, I had to ask for over two months), through

their anxiety about answering direct questions, in their requests to not reveal from whom or how I got access to certain information or documents, and even by explicitly stating that they were not supposed to talk about certain issues. Despite these difficulties, I was able to meet most of the people I had intended to: only three groups refused to meet and two administration employees cancelled their appointments when it was impossible to reschedule.

Surely the difficulties already implied in the research theme have also been made harsher from the research design, especially by the choice to observe several municipalities at considerable geographical distance from one another (travel distance could get to over one hour and half by car, or up to three hours by public transports). Such geographical distance, to be eventually repeated even several times per case to take contacts and get to know the contexts, made every operation considerably more time consuming.

Despite these limitations, the way the research was designed, as grounded on a collection of nine municipalities and several cases, did effectively allow access to information rooted in geographically, socially and politically heterogeneous realities, thus opening to the possibility of recognizing transversal patterns. This would have not been possible if only looking at a single urban context.

*Fig. 7 – Venice, Coptic Church*[10]


Fig. *8 – Legnago, Muslim Cultural Centre*

10 If not stated otherwise all the photos of this thesis have been taken by the author

*Fig. 9 – San Bonifacio, Sikh Gurdwara*

*Fig. 10 – Padua, African Pentecostal Church*

## 5. Issues over position

### 5.1 Positioning the research: Critical or Liberal?

As briefly touched on while reviewing the literature, this dissertation moves both from works that are generally casted as being critical or insurgent (Sandercock, 1998; Yiftachel, 1998), calling for a radical urban practice (Marcuse, 2009), and from others that are instead more often interpreted as being liberal (Ellickson, 1973; Coase, 1960). Very briefly and without entering in the infinite nuances of the subject, what distinguishes them is that critical literature denounces the role, biases and shortfalls of public bodies and argues for the necessity of a different and more active state, rather than for less state governance.

"The liberals", instead, similarly criticize the shortfalls of public authorities but, in response, they argue for how a wide number of issues could be solved either with market mechanisms or private law, reducing the direct interference of the public authority. To give an example: in front of a zoning ordinance defining a minimum lot dimension, thus *de facto* impeding the low-income population to settle, a critical solution would typically either advise for quotas to be dedicated to low-income population, or to modify the zoning regulations by changing the minimum dimension. Liberals would instead typically advise to abolish the zoning regulation leaving anyone – formally – "free" to settle, they would recommend of intervening only to regulate eventual resulting nuisances. To the research proposed here, these positions do not stand as sole responses, but interesting solutions do emerge from the convergence of critical premises with liberal solutions.

Of course, this is a banalization of a wide and lengthy debate (Marcuse et al., 2014), and, to be fair, when starting to work on this dissertation I did not think of positioning the research on critical-liberal axes (assuming there is one). Perhaps, at first, I was not aware of the unavoidability of this outcome. This consciousness came only by the end, reading through what was almost the final version of the dissertation and sensing how the juxtaposition of explicitly critical literatures with ideas notoriously proposed by exponents of liberal planning (Ellickson, 1973) may have been disorienting to some readers. I thus list here some of the reasons why I deem this encounter not only possible but constructive.

• First, by reading through different texts which are generally accounted for as part of critical thinking – including some in critical urban studies (Sandercockh, 1998), in critical legal geography (Azuela & Meneses-Reyes, 2007; Braverman et al., 2014; Blomley, 2020), critical race theory (Delagado & Stefanic, 2001) and in critical secular scholarship (Asad, 1993; Mahmood, 2015; Nongbri, 2013). I found it hard to construct a unique critical framework that could be coherently used to inform action and rethink – even only parts – of planning activity. To bring an example closely related to the theme of this dissertation: critical voices in urban studies, similar to exponents of critical race theory, argue that enhancing diversity requires some type of affirmative action (for instance, envisioning areas to be dedicated to the Islamic

religious practice). In contrast, critical secular studies argue for the necessity of deconstructing the very category of religion, recognizing how it is not "other" from the secular, but it is instead its specular face, which is potentially inseparable from its seeming opposite. In other words, arguing how religion is "not special". In practice, these theories, although both being declared as "critical", seem to lead to very different operative solutions: the first asks public administrations to be even more embedded in the location of religion, while the latter asks them to take a step back so to limit, or not perpetuate, this interference.

• Second, critical thinking is often understood as favouring the position of the most disenfranchised, keeping a constant eye towards justice and fairness (Marcuse et al., 2014) and blames the liberal for having excessive trust in both the market and the individual (Sandercockh, 2000). In this dissertation, we are however speaking of goods (places of worship) that are by definition not an expression of an individual's claim but rather that of a collective one (the need for a place of worship) and that, to the current situation in Italy, are essentially goods kept out of the market. Public authorities have almost complete power to decide if and where those claims will be realized, eventually taking the form of a Church, a Mosque or a Gurdwara. In this sense, public authorities at the moment retain a sort of monopoly on how space for religious use can be allocated. This public monopoly, however, does not seem to answer to the demands of religious groups in a satisfactory manner: even if administrations are legally required to "create the conditions" for religious liberty to unfold religious demands remain systematically unaddressed. This disconnection among demand and supply is not due to chances, but due to deliberate strategies enacted by public bodies through planning (see Chapter 1). Given this situation, granting an even more prominent role to public authorities does not seem to be a promising strategy, at least not while the location of religious diversity will remain a highly controversial political issue.

•Third, and relatedly, speaking of enhancing diversity, giving to a few (whether democratically elected or not) the power to decide what diversity ought to be, and how it ought to use space, seems a quite narrow understanding of what diversity is and what it might have to offer. Whether this is generally not made explicit calls for more "flexibility" and sensibility to diversity do, as a matter of fact, give the power to some (either the political majority in charge or a planner) to decide who among the "diverse" deserves a space to worship and who does not. Additionally – in the Italian context – it means agreeing on how that can be done with substantial discretion.

I am not here to argue that the combination of critical and liberal sources and solutions proposed in this dissertation will resolve every planning disagreement over the accommodation of diversity. In effect, I doubt the existence of an approach that will be able "to address all the needs arising from and problems relating to cultural diversity" (Sandercockh, 2000, p.18). For instance, conflicts as those analysed by Burayidi (2003) where a public authority is asked decide between realizing a pipeline or leaving intact a sacred indigenous place, will hardly find any help in the paradigm proposed here. Nevertheless, a whole range of maybe smaller and more ordinary

conflicts may find some good in accounting for a solution formed at the interface of this supposed critical/liberal divide.

### *5.2 Positioning myself: being aware of research biases*

There are at least two sets of biases which I should approach in this introduction; the first – as one might expect– is about my relationship with religion. As almost all the people who grew up in Italy, and although raised in a profoundly laic family, I have been exposed since I was a child to a mixture of Christian Catholic symbols, uses, tradition and habits. Some show as connected to an explicit belief and practice (as, for instance, going to Church), while others are diluted in habits that are not readily identified as religious (as, for instance, having Sundays as the week holiday). Apart from this constant exposure, which certainly shaped my preferences and perceptions even in manners I am not completely aware of, I have no particular feeling toward religion; I probably only feel a sense of profound curiosity for the ways in which people engage with what, to me, look very much like narratives. In the course of my life, I have had many relations, also close kinship, with people engaged in a heterogeneous variety of practices (Christian, Muslim, Buddhist, Pagan, Jews etc.) yet I did not feel particularly close to any of them.

Leaving aside my preferences for religion and discussing instead my approach to its role in society: before starting this dissertation, I would have argued without much doubt, and in line with political secularism, that the state and religion should be clearly separated domains, and instinctively I still do think that. In effect, when at first approaching literature in critical secular studies, I was annoyed. Coming from my perspective, I found it deeply disorienting to read something that – at first – I interpreted as "challenging" and "condemning" the division between religion and state. However, after going deeper and giving myself some time, I started to read this literature as not being "against" the independence of public bodies from religious influence, but, as exposing, first, why this alleged complete independence is largely impossible to the extent that the secular state actually interferes with religion to an "unprecedent" degree, and, second, how forcing this separation might not only come with positive, but also with negative, and deeply troubling, consequences. To understand and expose the terms of this interference and how they operate in space does not mean that I wish to turn to a religious kind of state (I surely do not), but rather that the terms and implications of political secularism need to be more carefully acknowledged, particularly for the spatial consequences they entail, so to have the possibility of acting on their eventually perverse implications.

Relatedly, an additional bias should be here mentioned. If it is hard to position religious groups on a single conservative-progressive axes, yet it is also true that many of the religious members with whom I have been meeting could be easily cast as representatives of "conservative minorities", supporting ideas that are far from my personal beliefs for a utopia of cohabitation. This is the case of some Muslims who expressed their ideas on the relations between man and woman through a leaflet which I found troubling, if not openly offensive; this was also the case of some Christian

orthodox who clearly cast me as a lost soul when acknowledging I am not baptized; this was also the case for the Scientology team that tried to convince me that their revelatory "techniques" could help solve my psychological blocks; this is the case for Muslims and Sikhs who made clear they favoured politically right xenophobic parties, apparently against the very interests of their fellows. To be honest, and allowing for exceptions, I probably have very little in common with many of those religious leaders and representatives with whom I found myself interacting. This eventually also led me to struggle with the idea of their extended and organized presence in the territory. Despite this, I deliberately chose to focus not on the desirability of their organized presence in the urban context; I do not think it is up to me as a citizen or as a young researcher to decide who is "progressive" enough to take place. As a citizen, I held it as my duty to participate in political life, engaging and supporting radical politics, with the utopian hope of one day living in a more "open" society. As an aspiring young researcher, I hold it as my duty to understand how our planning system works and eventually how to improve it. This includes looking at what criteria are employed to accord or refuse different possibilities of location. Phrased in a more academic fashion: while I do not consider it to be the responsibility of planners to judge either an individual or a group on the basis of the values that a group embraces, I do think it is fully among planners' responsibilities to clearly frame how some individuals or groups can impact others' legitimate interests in space. Then, if meeting collectively is considered to be a legitimate right (and I believe it is), this should be equally granted to everyone, regardless of their progressive or regressive, or religious or secular stances, at least up to the point that they would be considered criminals under the law. In this sense, the kinds of values supported by the various groups were not here the object of discussion.

The second bias I should be addressing concerns my political beliefs and the political period during which this dissertation has been planned and written. Having started in 2018, the years of this Ph.D. have been characterized by the feeling of an important conservative resurgence, both in Italy and elsewhere. The Brexit in UK, Trump in the US, Bolsonaro in Brasil and the growth in support for Le Pen in France, all happened during a period of exponential growth of Lega Nord in Italy. To my eyes, these are all "proof" of the way those who supposedly act in the name of a chimeric public interest can take all possible colours, including xenophobic and racist ones, and – for what it seems – this can easily occur in so called "advanced democracies". To make this point differently, "In this context the capacity of majoritarian politics to safeguard minority interests seems uncertain" (Cooper, 2004, p. 5).

If the articles of this dissertation (especially the former two) were going to be written in a context valuing pluralism rather than refusing it, then my approach may have been different; eventually I might have agreed with other scholars who are engaged in the politics of difference, arguing how leaving discretion to public authorities and professionals, and enhancing communication skills might have been something, not only good, but also effective. However, the material used for this dissertation has been both collected and analysed in a historical moment where people

elected as legitimate representatives in political bodies constantly make openly discriminatory declarations. The sense of disgust I felt anytime I was opening some newspaper surely had some influence on the kind of analysis and normative solutions I am advancing through this dissertation.

Although this can surely be considered as a bias, I don't consider it as a limit - quite the opposite. Starting from a "disillusioned" perspective allowed me to avoid being blind or excessively hopeful about the role that public authorities, planning and planners can play. I am not saying that positive experiences are not out there or that there will never be some positive case of multiculturalism, luckily both literature and life would easily prove me wrong. What I am saying is that, especially if considering how planning systems, planning laws and at times even masterplans have a lifetime that is often much longer than the average duration of a political mandate[11], then layers of planning sources should be formulated and structured so as to be applied without systematically favouring conservative instances both in times of political openness as well as in times of insurgent racism, and this should not depend on the work of just a single planner.

Expanding on this issue, many of those who have been reading and reviewing my papers have suggested to expand the discussion by giving greater attention to the problematic implications of racism. Understanding the reasoning of these critics, I did seriously consider them and occasionally, especially in the second paper, I did make that connection explicit. Nevertheless, even if making some reference to it, overall I preferred not to turn a dissertation centred on the relevance of diversity in urban space into a dissertation on the problems of racism. Although they are deeply related issues, they are not the same. In the former case we focus on the way difference organizes in space and the question from which we move is, how can we think to have people with different backgrounds and claims decently living next to one another and what (planning) elements are currently impeding the achievement of such? In the latter case, if explicitly looking at racism, we would instead be concerned not with the "form" of difference but instead with the "willingness of difference". Then, as a point of departure, we would have to ask whether people want to live next to each other or not. In the likely case that research would show how those opting for a negative (racist) answer are a substantial portion of the population, then we can easily blame both individual and political racial and cultural biases to be responsible for impeding our ability to have a decent life together. To me, this is only partially true, being aware

[11] Often mayors in the new mandate initiate the procedure for the approval of new operative plans (P.I.), this to the extent that this type of plan is even referred as the "mayor's plan". Nevertheless newly elected administrations don't always have the willingness or the economic/political resources to do so. It is then also quite common that the operative plans remains working for way more than five years. For instance: Thiene's operative plan was approved in 2013, Verona's operative plan was last approved in 2011 and Venice does not even have a canonical P.I. but only a series of variations on a plan initially approved even before planning law L.R. 12/2004. In such situations the more common approach is to make some partial variations on already approved plans targeting specific issues or sites in the municipality.

both of how Italian cities are diverse (willingly or not) and how many people (and politicians) dislike that fact, yet as a researcher in planning I feel compelled to be sure that the discipline in which I am working is not structured in such a way as to systematically favour racism. In sum, in this dissertation I did not want to speak of removing individual or political racist biases, unfortunately, they not only exist but are proliferating and most probably will continue to do so. I instead wanted to focus on how planning can provide a grammar structured in such a way as to avoid systematically serving such a xenophobic logic, stopping to support it with a supposedly "technical" rationale.

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# CHAPTER 1

# The limits of planning: Avoidance, concealment, and refusal of religious diversity in northeast Italy

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***Abstract***

*In Italy the religious cityscape appears singularly homogeneous, marked by a Christian-Catholic predominance that fails to reflect population changing demands. Considering this situation, this paper questions how administrations handle new claims for religious space and if planning, as currently configured in Italy, can be expected to contribute to the formation of a different, more diverse, city. The findings suggest the opposite: public administrations understand non-Catholic places of worship as something to avoid or conceal, if not openly refuse, and planning supports this modus operandi through technical, cultural and political limitations, contributing to the creation of a twin-track of recognition and legitimacy among religious groups.*

***Keywords*****:** religious diversity; places of worship; land use, urban standard

## *1. Introduction*

Visiting any Italian city, it is easy to notice the beauty and quantity of Catholic churches; in contrast, mosques, gurdwaras, and even Orthodox Christian churches are few and generally pass unseen. Emptying the city's inhabitants and only considering the buildings, almost nothing indicates how religious demographics are changing: the cityscape remains basically unaltered, religiously marked by a Christian-Catholic predominance that does not necessarily reflect the current population. Looking at this situation the present paper asks how is this religiously homogeneous landscape maintained? Can planning, as currently configured in Italy, be reasonably expected to accommodate religious diversity to contribute to the construction of a different city?

This research suggest how the persistence of such uniformity both in smaller towns and larger cities is the product of strategies deliberately set in place by local administrations leveraging on planning techniques. In fact, a closer examination of the reasons for this apparent homogeneity indicates that it is not due to some sort of "natural condition"; on the contrary non-Catholic communities, notably ethno-religious groups, have made numerous attempts to establish houses of worship however their efforts have generally lacked public authorities support and often received steady opposition forcing them to relent or downscale their projects (Conti, 2016; Saint-Blancat & Schmidt di Friedberg, 2005) so that many keep gathering in unauthorised spaces (Butticci, 2016; Pace, 2013). They are shops or warehouses located on city outskirts, adapted to their new function through minor internal renovations. Similar situations are experienced throughout Europe, and studies on disputes over the settlement of religious communities, particularly but not exclusively Muslim, have highlighted how they follow repetitive scripts where non-conformity to planning prescriptions constitute a main argument supporting conflict and exclusion (Cesari, 2005).

Although it is frequently assumed that planning can accommodate diversity by applying objective criteria and unbiased procedures, more research is needed on this. Similarly to how planning biases regarding gender and race have been exposed (Sandercock & Forsyth, 1992; Thomas, 2000) it is also timely for akin efforts to expose how features of the secular systematically operate in space (Berg, 2019). To do so, this work draws on studies in geography of religion, planning, and critical secular studies. It, first, inquires the strategies enacted by administrations, through their planning offices, when confronted with spatial claims advanced by "alien" religious groups and, second, discusses how these strategies find justification in technical, cultural and political traits of the planning system, constituting structural limits to planning's contribution to the multicultural city. Although these issues run transversally to a multiplicity of scales[1] the focus is here maintained at the local level, where conflicts over religious spatiality more visibly unfold, revealing how ostensibly

[1] Freedom of religion is, for instance, established by the Universal Declaration of Human Rights (art. 18) and the European Convention of Human Rights (art. 9).

shared principles of religious equality and freedom, foundational promises of the secular state (Mahmood, 2016), remain both problematic and largely unrealized (Nye, 1998). Differently from other contexts (such as UK, Canada or Australia which, at least until recently, were more openly characterized by a multicultural frame for action), the role played by planning when confronted with conditions of increasing religious diversity has been rarely investigated in Italy (Chiodelli & Moroni, 2017). When present, research is mainly from the juridical field (Bettetini, 2010; Marchei, 2017) or limited to large cities (Chiodelli, 2015; Formenti, 2007; Russo & Saggiorno, 2018) and to the struggles experienced by individual groups negotiating their urban presence (Allievi, 2000; Omenetto, 2017; Riccio, 2004). This research integrates existent literature by undertaking a more transversal view, thus focusing on the adequacy of planning in approaching pluralism as it interests, transversally, different minority groups in variously sized municipalities independently from political majorities (which nevertheless may differently take advantage of structural limitations).

The paper is based on nine municipalities located in the Veneto region, in Italy's northeast, and is structured in six sections. Following the theoretical framework; information on the context and on the research design are provided in sections three and four. Section five outlines three strategies enacted by administrations: avoidance, concealment, and refusal. Section six further discusses these strategies and isolates those planning elements that, if passing unnoticed, favour exclusionary ends.

## *2. Between "politics of the sacred" and the "dark side of planning"*

Despite diversity having become, on paper at least, "the new orthodoxy of city planning" (Fainstein, 2005, p. 3); religious diversity has received relatively scarce attention (Sandercock, 2006). Until recently, social identities that could not be "easily conflated with 'race' or 'ethnicity' were of little interest among planners" (Gale, 2008, p. 19). Things gradually started changing in the early 1990s. The shift was stimulated, on the theoretical side, by a "spatial turn" that on the wake of other social sciences also interested religious studies (Knott, 2008) and, on the empirical side, by the effects of people's increasing mobility. The politics of the sacred space (Kong, 2001) and the way religious spaces are "not merely discovered, or founded, or constructed" but "claimed, owned, and operated by people advancing specific interests" (Chidester & Linenthal, 1995, p. 15) became object of increasing public concern, often emerging in administrations' reluctancy to answer demands advanced by "religious minorities". These minorities (Mahmood, 2016), in Italy, mostly indicates ethno-religious groups that not only depart from standards rooted in Catholicism but, converging ethnic and religious specificities, typify the image of "the other" (Giorgi, 2018).

Observing how cultural and religious identities, instead of being equal and free as liberal imperatives would seem to suggest, can be as subject to exclusion as racial ones, scholars have gained interest in how religious diversity carves out a new,

frequently conflicting, spatiality (Eade, 1996; Garbin, 2013; Kuppinger, 2014) and on how planning accommodates diversity (Chiodelli & Moroni, 2017; Dwyer et al. 2016; Gale, 2009; Gale & Naylor, 2002) within a politically secular framework (Berg, 2019; Manouchehrifar, 2018). It is on the line of these interlaced bodies of literature that section five outlines the strategies enacted by municipalities in response to religious claims for space.

Analysing these, section six addresses the "dark side of planning" (Flyvbjerg, 1996; Yiftachel, 1998), exposing those elements of the Italian planning system that "favour harmonization" (Peach & Gale, 2003, p. 481) even if implying systematic marginalization.

This process of exposure is organized into three intersecting domains, emerging more or less explicitly from most works on the multicultural city (for a review see Fincher et al., 2014), they are: the technical, the cultural, and the political (or ethical). Since it is largely through norms that "planning limits" are maintained then legal aspects, while not considered independently, emerge transversally.

The technical domain here refers to "formalized knowledge that is linked to defined theoretical frameworks and leads and affects practices" (Mazza, 2002, p. 12). It concerns the tools and procedures applied in planning practice and determining how individuals and groups are allowed to settle or change the urban environment. Considerations of data gathering, land use control, and plans approval (Qadeer, 1997; Burchardt, 2019) are examples of what is accounted as technical.

The cultural domain refers to values subsumed within apparently neutral planning procedures and techniques. Although planning is, in Italy as elsewhere, frequently justified by evoking a vague public interest (Campbell & Marshall, 2002), this idea progressively becomes a chimere (Tait, 2016). This loss of credibility might simply mean that we must "wrestle with the problems under some other heading" (Flatman, 1966, p. 13); however, it also underlines an increasing uneasiness with the idea of planning as a value free activity (Klosterman, 1983), exposing the risks of uncritically accepting group-specific values as universal. Relatedly, it seems worth stressing how referring to "religion" is itself not culturally neutral. Although among geographers and planners its meaning has not often been "subject of extensive reflection" (Ivakhiv, 2006, p. 169) once we start questioning what counts as religion a whole set of "indefensible assumptions" (Cavanaugh, 2009, p. 4) easily surface. To a close look religion shows up being a "nineteenth century discursive practice" (Masuzawa, 2005, p. 21) matured within Christian Europe (Asad, 1993), a constructed category hardly distinguishable from secularized "cultural" or "social" ones. Critical secular scholars suggest how the secular is not simply the lack of religion but how it implies specific ways of relating to, incorporating, and domesticating it. Although such expressions as "religion" or "worship" will here continue to be used in their plain-language sense due to their pervasiveness in everyday narratives, scholarly literature, norms, and regulations, the choice is taken in full consciousness of its theoretical limits (Nye, 2019). Even for planning, these are not abstract dilemmas; their centrality clearly

emerges when different regulations apply solely depending on whether communities are identified by a "religious" or a "socio-cultural" label.

Finally, the political domain refers to the relation linking planning practice and political agendas and the degree of planning independence from elected political bodies. These concerns are part of what some (Campbell, 2012; Marcuse, 1976) discuss as the ethic of planning. Although most recognize a relation among politic and planning there is no consensus regarding the nature of this relationship. At least one main divide should be mentioned. It sees on one side those embracing an idea of planning as being mostly progressive and partly independent from institutional politic, valuing its "socially progressive qualities (…) origins and inheritance" (Campbell, 2012; p. 383). In this view planners are expected to struggle for justice (Fainstein, 2014), advocate in behalf of particular groups (Davidoff, 1965), and generally pursue social inclusion. Others, instead, consider planning mostly as a public exercise of authority (Moroni, 2020) and warn from the risk of abstracting planning from the real unfolding of politic (Flyvbjerg, 1996), in the attempt "to resolve conflicts of decision-making through various forms of ethical and deliberative universalism" ignoring "the dependence of planning on the principle of authority" (Mazza, 2009, p. 133). Following this logic the profession emerges as being more "likely to be system maintaining rather than system challenging" (Marcuse, 1976; p. 274).

This work, whether informed by author in both groups, is positioned closer to the second. It is not a work about an hopeful "ought" of planning, but rather a work on its less promising "being", which—in contexts such as Italy—is far from fostering an equitable accommodation of diversity in general, and of religious diversity in particular.

## *3. Demography and legislative aspects in Italy and Veneto*

### *3.1 Religious diversity: Demographic background*

The Italian process of immigration, as a process associated with the diversification of the religious landscape, is a quite recent phenomenon such that the debate on its implications emerged later compared to other European countries, and it is still in its infancy. Official records on religious demographics are not available, and estimates generally rely on foreign residents' countries of origin. Here, "foreign" –literal translation of the term used in Italian statistics – indicates those without Italian citizenship; it is preferred to "migrant" because it also includes people who are settled, not just those on the move, as the latter term might suggest. Due to Italian citizenship laws, statistics on "foreigners" also include minors born in Italy to non-Italian parents. In 1981, non-Italian residents were about 200,000, 0.35% of the population; by 2019, they numbered over 5 million, or 8.7% (ISTAT, 2019). Even if religious belonging cannot always be inferred from national origins or citizenship (converts are then not counted, nor are those who have acquired Italian citizenship – over one million in the

last decade), nevertheless, statistics are still indicative of the magnitude of the phenomenon. The largest groups of non-Catholic believers are Muslims (mostly Sunnis), they number over 1.6 million, representing about 30% of foreigners in Italy. Orthodox Christians (mostly belonging to Romanian, Constantinople, and Russian patriarchates) are a close second at about 1.56 million (ISMU, 2019). Smaller but growing presences are Evangelical/Pentecostal Christians, at about 183,000, followed by Buddhists (136,000), Hindus (114,000), and Sikhs (49,000).

Despite the size of the Muslim population in Italy, there are fewer than 10 purpose-built mosques, and most Muslims gather in retrofitted spaces registered to some kind of "association," not formally recognized as places of worship. The Orthodox situation differs in that though they often do not have their own space, they are frequently hosted in Catholic buildings.

Overall, and allowing for few departures, Veneto's demographics appear largely coherent with this national frame. In the region live about 4.9 million people scattered around 563 municipalities the largest of which is Venice, the regional capital, with a little less than 260,000 inhabitants. Beginning in the 1980s, Veneto became a particularly attractive migration destination due to its economic wealth, and foreigners have been extensively employed in industry and agriculture. In 2019 non-Italian Veneto residents number about 500,000, comprising about 10% of Veneto's population, and an additional 100,000 acquired citizenship in the last decade.

Approximately 134,000 Muslims live here, along with 170,000 Orthodox Christians (ISMU, 2018); some areas also have a substantial number of Sikhs, with over 6,000 in Vicenza Province (Migrantes Vicenza, 2016); and, as elsewhere, Evangelicals are increasingly represented. No official mosque or gurdwara has been built, though a few Orthodox churches are currently under construction.

### *3.2 Legislative framework: Religious freedom and planning*

In 1948, with the approval of the Constitution establishing freedom of religion and equal treatment among religious groups (art. 7,8,19) Italy ceased being an officially Catholic country. What followed was a system of "positive laicism" (Dalla Torre, 2012), here the State is expected not to be indifferent but to be equidistant from the different beliefs. Relations between the State and the Catholic Church are regulated by a concordat (Accordo di Villa Madama), which also works as a model to other agreements regulating relations with some (few) other faiths[2]. Those faith who, instead, did not subscribe any agreement (including Muslims, most Orthodox patriarchates, Sikhs, and the various Evangelicals) fall under the law on so-called "admitted faiths" (Ll 1159/1924). Among other things, it establishes that the public exercise of religion is free, including the possibility of realizing places of worship (Cc

[2] Only twelve faiths signed agreements; see list on the Ministry of the Interior website (http://presidenza.governo.it/USRI/confessioni/intese_indice.html)

sent. 195/1993). This right should be implemented through the simultaneous affirmation of negative liberty (the State should avoid taking actions preventing free exercise of worship) and of positive liberty (the State should create the conditions for this freedom to unfold (Cc 67/2017; Cc 254/2019)).

However, the practice hardly matches theory. Although, formally, legislative action on planning is the concurrent responsibility of the State and regional governments, and municipal administrations are responsible for land use within this framework, in practice the State fails to provide any guidance or reference for action, so that regions, within their territory, enjoy almost unchallenged normative autonomy, and municipalities manage land use regulations uncontested, to the degree that groups encounter a system of differentiated freedoms depending on their location.

The only tool established at the national level and available to municipalities for the regulation of religious uses is that of "planning standards", disciplined by national decree 1444/1968[3]. Planning standards set, in each area (residential, industrial, etc.), the minimum mandatory footage per inhabitant of land to be dedicated to the realization of public facilities. As part of collective provisions, religious facilities remained initially undefined and further specifics are only later[4] provided by regional norms, which largely normalize established Catholic spatial practices (Bolgiani, 2013). In effect, when first introduced, standard for religious facilities were meant to respond to a widely shared Catholic feeling, and in line with the predominant religious affiliation, they were largely devoted to Catholic structures.

During plan renewal (frequently corresponding to changes in political mandate), the planning process asks administrations to verify for the satisfaction of the minimum footage requirements: if they are satisfied no further intervention is required, if they are instead below the minimum then municipalities have to plan for new areas. The final approval of any provision depends on the city council.

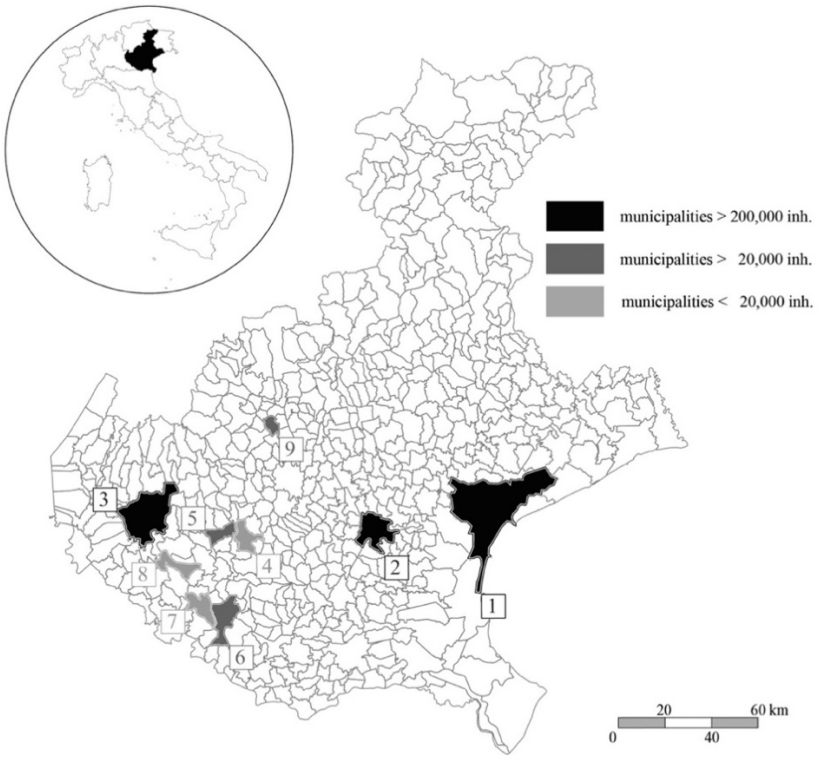
With increasing diversification, the demand of religious space increased and, in response to a shortage of legally available spaces, various communities have engaged in place-making processes (Becci et al., 2016) outside the explicit planning provisions. Many spaces came to be used as *de facto* places of worship, often hiding behind the "protection" of a national law regulating private associations (Ll 383/2000 art. 32, later Dlgs 117/2017 art. 71). It authorizes socio-cultural associations, working for "social enhancement" (APS), to gather in community centres. By contrast to places of worship they are allowed in every part of the city in any kind of building, even if disregarding land use prescriptions. Thus, using the possibilities (unwillingly) opened up by this norm and leveraging the difficulty of distinguishing what is properly "religious" from what is merely "socio-cultural," many groups avoid declaring religious intent and enact an operation of "juridical camouflage" (Cardia & Della Torre, 2015).

[3] Originally introduced by law 765/1967

[4] Norms defining religious facilities were first approved in 1978 following the decentralisation fostered by d.P.R 616/1977, later confirmed by "Legge Bassanini" (Ll 585/1997) and by the Constitutional reform (2001).

As other regions, Veneto was also interested by this trend of diversification. In response, under the lead of "Lega Nord" (a right-wing, identitarian political party) and in the wake of a similar initiative undertaken by the nearby Lombardy region, the Regional Council passed a norm (LR 12/2016) integrating the existing regional planning law with three articles regulating places of worship. First, they expanded the definition to include any space used in any manner connected to religion; any prayer hall, regardless of its "cultural association" title or former warehouse location, is now considered to be a "place of worship." Second, requirements such as "appropriate" parking footage or "appropriate" distance between different congregations' places of worship, were introduced for these spaces; in the law no definition of "appropriate" is provided and interpretation is left to discretionary evaluations. Further, the norm stresses that places of worship can only be located in areas zoned for "religious facilities" which, as mentioned above, must be time-by-time approved by the city council. Although the norm was colloquially labelled the "anti-mosque" law, indicating the unsubtle intent to limit the realization of Muslim religious spaces, as per constitutional requirements it has been phrased in formally neutral language, avoiding reference to any specific beliefs. It does therefore potentially affect the possibility of realizing or retrofitting any place for religious intents, not only mosques.

## *4. Research design and case studies selection*




*Map 1 – Location and examined municipalities*

| | Municipality | Total Population (2019) | Foreign Population (2019) | Political Orientation | Available material for each municipality<br>Pr= Press review<br>I= Interviews (n. of interviews)<br>J= Jurisprudence (n. of case law)<br>Pl= Planning documents other than masterplans |
|---|---|---|---|---|---|
| **1** | Venice | 259,150 | 38,945 | Centre-right | Pr/I(8)/J(2)/Pl |
| **2** | Padua | 212,395 | 35,757 | Centre-left | Pr/I(7) |
| **3** | Verona | 258,010 | 38,173 | Right | Pr/I(4)/J(2)/Pl |
| **4** | Lonigo | 16,431 | 2,837 | Right | Pr/I(2) |
| **5** | S. Bonifacio | 21,236 | 4,077 | Centre-Left | Pr/I(4) |
| **6** | Legnago | 25,570 | 2,485 | Centre-Left | Pr/I(3)/Pl |
| **7** | Cerea | 16,693 | 1,406 | Right | Pr/I(1)/Pl |
| **8** | Oppeano | 10,291 | 1,517 | Right | Pr/I(1)/J(2)/Pl |
| **9** | Thiene | 24,268 | 3,290 | Centre-Left | Pr/I(3)/Pl |

*Table 1 – Local demographics and materials studied*

This research is the outcome of six months' fieldwork conducted in Veneto. It is a qualitative work in which nine municipalities are analysed looking for similar patterns. Whilst these municipalities are not chosen to be statistically representative, they are nevertheless demographically relevant, as they account for over 17% of the total regional population and about 25% of the foreign population. The selection was pursued to include towns of different size, political affiliations, and religious demography. The selection also favoured localities of interest from a planning/spatial perspective (i.e. masterplan approvals, land use controversies, spatial concentration of groups). Given the selection criteria most of these municipalities have been interested by the location of more than one non-Catholic religious group, each of these processes of location is considered to be a ' case'.

Qualitative work was preferred both due to the scarcity of organized data and because it was more coherent given the research aims of (a) inquiring administration response strategies to claims for religious space and (b) uncovering elements of planning allowing for these strategies to unfold. As for tools of investigation/materials used, they include both secondary material (press materials, planning documents, jurisprudence) and information collected during more than 30 semi-structured interviews with different informants, especially planners and religious group members. The number of interviews per municipality was not pre-set; it depended on the quality of information provided and thus tends to decrease in smaller municipalities, where it was easier to identify informants who could provide a sufficiently articulated picture. During interviews, which took 40 to 80 minutes, planners were asked to illustrate if and how they account for religious diversity and

the procedures they follow when asked to intervene. The way of formulating questions was preferably general ("how does religious diversity enters in planning activity"), and not specific ("what do you, as a professional, think of religious diversity in urban space"). More specifically the structure of the interviews included a preliminary phase in which I tested the terrain asking if the issue of religious diversity was of interest in the municipality and if (and how) the planning office was involved. Following, I typically asked how did planners respond to eventual request by religious groups, if there were areas readily available to be used, if the topic was considered in times of plan renewal or instead was systematically left out, if something (and what) changed depending on the political leadership of the municipality or after the approval of regional law 12/2016, if there was some reticence or hostility to the location of religious groups, and if decisions were felt as a technical or political issue. In a more advanced phase of the interview, I generally asked to explain in further detail the steps taken to deal with some specific case by some non-catholic group occurring in the municipality. Deeping into specific events helped me to articulate further interrogatives. For instance: what kind of permit were religious groups asking? Were planners involved/aware of religious groups tactics to locate? There were some informal preliminary meeting? When, how and why the municipality intervenes with procedures of displacement or legal suits?

Parallelly, members of religious communities were encouraged to expose their process of location and eventual problems they had to face. As for planners and employees in the public administration, also in this case interviews (which lasted among 20 and 90 minutes depending on the availability and loqucity of the key informants) opened with very general questions as for instance how did they find the place where they were currently gathering, did they look for other locations or (if they were gathering in informal locations) tried to have a proper place of worship built? Were they aware of LR 12/2016 and did it make any difference to their condition? I also asked if they had to move often and if they incurred in any serious opposition, if this was the case what was the dynamic of the controversy and what difficulties did they find? The interview then moved to more specific points, for instance I asked how the group was formally registered, what kind of interactions they have with planning offices, if they had eventual judiciary issues and how did they evolve.

Although the more prominent controversies generally concerned Muslims, this research did not restrict itself to any specific faith; interviewees also included Orthodox Christians (Romanian and Coptic), African Evangelical Christians, Sikhs, and a Scientologist community. The intention is not to outline an individual group's struggles but to reveal the biases underlying seemingly neutral, ordinary, planning processes.

As for the analysis of planning documents I doublechecked the parts regarding planning standards in each of the plans approved and currently valid in the municipality. Although I did not myself quantified available areas, their availability was included in the questions to planners. Further on for some municipalities (Venice,

Oppeano, Legnago, Thiene) I also had access to other documents such as building requests and council transcripts.

## *5. Avoidance, concealment, and refusal of religious diversity*

This section presents three strategies that, being enacted by local administrations in response to the claims advanced by non-Catholic groups, have been found to be largely responsible for the maintenance of an homogenous, Catholically connotated, landscape. Their identification is based on municipalities' attitude toward religious diversity— "attitude" here meaning not the expression of ideas and discourses of sympathy or antipathy but the operative enactment of measures affecting religious groups' possibilities to locate and that, although reconnected to planning, generally prescind from planners individual sensibility toward diversity.

These strategies are not mutually exclusive; the same city could experience them simultaneously (directed toward different communities) or in different periods. Similarly, with time and changing conditions, the same group could experience the enactment of more than one. In the cases examined, avoidance seems to be the *plateau* on which the other two strategies unfold.

### *5.1 Avoidance*

Before considering *how* public administrations handle spatial demands connected to religious diversity, it is useful to clarify if they do so. In this, as in other studies (Dunn, 2004; Kuppinger, 2011), the answer is consistently negative. In none of the nine municipalities, irrespective of their size, of the administration's political orientation, and of the number and type of religious groups, does a spatial strategy address the issue of religious diversity. This does not mean that religious groups can locate freely; on the contrary, it means that they are not regarded as meriting public consideration. Religious spatial demands have been systematically avoided both in ordinary planning and during masterplan renewals, when the possibility of envisioning new areas for religious facilities has typically been dismissed. I name this as a strategy of avoidance, meaning the processes by which administrations remain indifferent and deliberately ignore religious' groups claims.

This strategy has been observed in all the three larger cities: for instance, a planner in Venice openly stated that the municipality never adopted any strategy to accommodate the various religious groups and how, despite numerous requests, the identification of space for religious facilities is not a priority. In the absence of a general strategy, the administration adopts a case-by-case approach, judging requests with substantial discretion (planner, Venice, 2019). Similarly, a planner in Padua confirmed that no changes had been recently introduced in planning documents to make space for numerous "new" religious groups (Fig.1); and similar responses were

given by employees in Verona. In making these statements, the interviewees suggested that such matters are largely political issues in which they intervene only as technicians, translating political visions into spatial frames.

Similar discourses are reproduced in small and medium centres. Let us consider San Bonifacio, a municipality of 21,000 people, with 19% foreigners, including large numbers of Romanians, Moroccans, and Punjabis (India). Here are present four non-Catholic communities: Romanian Orthodox are hosted in a Catholic chapel, Muslims and Sikhs own two different former warehouses, and African Evangelicals only recently turned to the administration asking for space. Faced with this situation, the planner expressed clearly that no areas are available for the realisation of proper places of worship, but despite this, planning for new ones was not considered during masterplan renewal.

In a like manner, in Thiene, a municipality of 24,000, with 14% foreigners, the planner confirmed that "with the masterplan, there has been no intention to accommodate the requests made in the last ten or fifteen years (….) In general, the answer to these was negative, the administration tried to avoid any variation, independently from the confession of the group. The situation was interpreted as frozen: Catholic churches and that is it!". Any change risked to "stimulate protests in the population" and was therefore "deemed too politically risky" (Planner, Thiene 2019).

Another, somehow different, occurred in Legnago, a city of 25,000, guided, since 2014, by a centre-left coalition. As elsewhere, the administration avoided for years initiatives aimed at creating conditions for foreign groups to legitimately settle. Then, in 2018, the process for the operative plan approval was initiated, and the task was entrusted to an external planning office hired as consultants. In the preliminary phase, a Muslim group forwarded a request to rezone an area to allow for the conversion of an existent building into a cultural centre. It was initially ignored. Later, following the adoption of the plan's first draft, a further round of consultation was opened, as required by law. The request was forwarded again, now alongside a second one advanced by the Romanian Orthodox community, it asking to rezone an agricultural lot to build a church. The former request was refused, while the second one was accepted. Reasons for refusal were found in the proposed Muslim cultural centre's "excessive" proximity to the existent Catholic church and in the inadequate parking space. The way in which the evaluations were phrased was rewritten several times in order to make this appear to be a purely technical and not a political stand. As the planner says, planners work to provide justifications for administration projects: "I did so for any kind of administration: right, left, centre … any!" (Planner, San Bonifacio, 2019). In this case, the technical ground was provided by the aforementioned "anti-mosque" law. The indications provided by the consultant, reviewed by the internal planning office and the municipal operative board, were then discussed by the council, and the "technical evaluation" was approved without objections, politically agreeing on the Orthodox presence whilst (politically) rejecting

the Muslim one. No other considerations were advanced, thus continuing to avoid the necessity of a more general strategy.

Hiding within the biases of planning structure, administrations operate case-by-case, not through consistent general planning. Considering the large margins of discretion available and that there "seems to be a preference for some religious groups more than for others" (Social sector, Venice, 2019), political majorities are free to deny public legitimation to some groups whenever considered politically convenient.

*Fig. 1 – Former warehouse now hosting at least ten religious groups, Padua*

### *5.2 Concealment*

Having verified how administrations, through their planning offices, avoid accounting for religious claims for space, the question became how groups' requests are ultimately dealt with when they cannot further be ignored. What emerges is that some respondents explicitly suggest that groups consider private spaces (normally tertiary or commercial) to hide their religious nature and bypass planning regulations; I name this as concealment strategy. The application of concealment strategies has been clearly illuminated in interviews in two municipalities where planners openly encouraged this solution in reply to requests advanced by Muslims, Sikhs, and Evangelical Christians alike. In addition, in two more cases, this solution more

opaquely emerged from the talk. At the times in question, left-wing administrations ran three out of four of these municipalities; however, in one case the planner emphasized that this solution was initially implicitly suggested under the leadership of a right-wing, Lega Nord majority. In another case, the religious group itself indicated that the Lega Nord administration "helped them" (Muslim secretary, Legnago, 2019) settle outside of official planning provisions.

The camouflage of religious facilities under the label of socio-cultural associations for the social enhancement (APS) enables concealment processes. Although religious purposes are formally outside the scope of APS, this solution allows groups to disregard land use codes and settle in any kind of building, in any city zone. Only group associates can access these spaces, and, operating under the guise of private circles, their religious nature is not publicly displayed and it is only verifiable through law enforcement inspections, most commonly mobilised because of neighbours' occasional complaints. In such a case, if officers find signs (typically presence of altars, sacred books, etc.) to support the suspicion that the preeminent activity is religious, then because of its location outside dedicated areas, the community could be imputed to be using the space unlawfully. Given the difficulties of precisely distinguishing what constitutes a "religious" activity from its secular "socio-cultural" counterpart, these controversies frequently end up in local courts.

Processes of concealment imply that buildings are not considered public but are private commercial or tertiary spaces, associated with particularly high planning fees and a required amount of parking space, both difficult conditions to satisfy in dense urban settings. Facing such constraints, foreign religious communities commonly accept to settle quite distant from residential areas; in fact, any other solution implies a masterplan variation, requiring municipal council pronouncement, and, considering that administrations normally carefully avoid this, camouflage is often the only possible solution left.

The fragility of this procedure is exemplified by Thiene. Here the larger Muslim cultural centre of Veneto is currently under construction (Fig.2); the community is registered as APS, and a building permit has been released for the realisation of a tertiary structure in an industrial-zoned area. While the municipality is currently administered by a left-wing majority, in charge at the moment of formalising the building request, it was instead during the previous Lega Nord mandate that a request for rezoning the area was rejected and the possibility of hiding the building's religious purpose was implicitly suggested. In 2017, around municipal elections, this very same political group organised opposition to the project, arguing that, as stated in recently approved regional law, using the building for religious purposes was illegal *qua* uncompliant with land use rules. Shortly after, the group published on its Facebook page a post inadvertently naming the building as a "mosque" instead of a "cultural centre". In response, the administration was obliged to warn them that the released permit only allowed "cultural" uses, while religious ones would be considered illegal.

In this, as in similar cases, the contents of masterplans are bypassed by applying other norms, and this is operationalised under the direct advice of public authorities.

Although it may seem an innocent practice, that is hardly the case. First, such solutions leave minority communities constantly uncertain; second, they deny the recognition of the place's public relevancy; and third, by being considered private, associations and their affiliated communities lose their right to access public areas and funds devoted to "religious" groups.

As for the reasons that may lead administrations to undertake this process, they are open to a double reading: either administrations hope to provide (short-term) solutions avoiding taking a controversial political stand in favour of minority religious groups in a hostile regional context, or they may perceive it as way to delegitimise them while preventing these issues from rising in the political arena.

The role of planners here is ambiguous: counterintuitively, they suggest contravening of planning regulations. It largely seems to be a coping mechanism used to navigate troubled waters, as characterised by the triple "advantage": allowing religious groups to somehow settle, allowing administrations to avoid deliberating on a politically thorny issue, and preventing planners from taking any direct responsibility.

As argued by one interviewee, this situation of informality results from political negligence: a lack of decisions perpetuated fully in consciousness of the existence of norms that allow for derogation (Planner, San Bonifacio 2019).

*Fig. 2 – Muslim cultural centre, under construction, Thien*

### *5.3 Refusal*

Another strategy is that of active engagement in contrasting religious groups presence; I name this as a strategy of refusal. While this is probably the one attracting the greatest attention from media and scholars alike, on the basis of what is inferable from this research, it does not necessarily constitute the most frequent mode of action.

The most striking examples were observed in three small municipalities traditionally led by the Lega Nord party. Opposition was explicitly directed against Muslim groups.

Refusal processes rely on a variety of discourses revolving around issues of property, safety and effective land and building use. Oppeano, a municipality of approximately 10,000 with 14% foreign residents, is an ideal example. Here, in the last two decades, two different Muslim associations tried tenaciously to establish a place of worship; they first attempted to buy a storage unit attached to empty residential spaces (early 2000s), then rented a commercial space (2007–2008), and last (2010), attempted to adapt a second commercial space that after a lengthy juridical argument remains in use.

The administration resolutely fought the Muslim presence. Initially, it questioned the legitimacy of conducting religious activities close to the residential area, generating additional urban load and in absence of the necessary building and hygiene requirements. Unable to move the group through such arguments, the administration acquired the building, arguing that it needed the area to make a public square – eventually to be named after Oriana Fallaci, an anti-Islamic journalist. Today the building is demolished, the debris is still on the spot, and work has been halted due to non-compliance with public works regulations.

In the second case (Fig. 3), the Muslim group rented a commercial space located in an agricultural-zoned area. Again, the municipality challenged its suitability due to hygiene considerations, while simultaneously arguing that the use of the space for religious activities was inconsistent both with the agricultural planning designation and the commercial building one. However since the case preceded the approval of law LR 12/2016 arguments of land use unconformity were insufficient to displace the group. To gather more information and repress the activity, the municipality requested law enforcement to intervene through an inspection. These proved that internal adaptations were occurring without the required authorisations, so that the administration sought closure due to non-fulfilment of building rules. When the group continued to hold its activities in the building, disregarding the objections, the administration interceded, and acquired the property thanks to some personal contact with the owner. Then, immediately after the acquisition, the masterplan was modified allowing additional uses for the building.

Last, a second Muslim group settled in another commercial space in a residential area. The administration pressed it to leave, arguing, as it had done before, that religious use was not authorised in a commercial space. The group, registered as APS and thus formally entitled to stay in any location unless the prevalent religious

vocation of the space was proven, refused to leave, and the case ended up in court. Arguments revolved around effective use, additional urban load, and modifications without a building permit. The municipality won the cause in the first degree; however, the sentence was reversed at the second appeal, and the group still gathers in the space. Again, immediately after this case, the municipality modified the masterplan's technical norms, requiring additional parking spaces for any future change involving religious uses.

When interviewed, the planner openly expressed discontent for the impossibility, ascribed to Constitutional obstacles, to adopt even more radical measures aimed at "making their [Muslims] life harder" (Planner, Oppeano 2019). Also, confirming support for similar positions, he admitted how the actions of the administration were guided by purely instrumental intents aligned with the political goal of affirming the value of autochthonous religious traditions (Planner, Oppeano 2019).

*Fig. 3 – Former commercial building rented in 2007 by a Muslim community, who were then forcibly displaced, Oppeano*

## *6. Limits of planning*

Avoidance, concealment and refusal are strategies enacted by administrations through their planning offices in response to the attempts of religious groups to assign new meanings to space (Ivakhiv, 2006). Instead of mobilising measures aimed at

enabling the accommodation of an increasing variety of religious groups, administrations fail to recognise the legitimacy of the minorities' repeated demands. This is true even to the extent that religious groups are able to have their place of worship only insofar as they can demonstrate that "it is not 'a true' place of worship" (Marchei, 2017, p. 14).

Building on the evidence reported, this section sheds some light on the "dark" elements of the Italian planning system that help the unfolding of avoidance, concealment, and refusal strategies. These elements are conceptualized as technical, cultural, and political limits of planning to the construction of a diverse urban environment.

*Technical*. Technical limits include the inadequacy of planning tools, the disconnection between planning tools and procedures and changing social demands, the lack of coordination among different types of spatial regulations, and the disproportionate importance attributed to use conformity. More specifically, strategies of avoidance occur under the "protection" of formal compliance to urban standards for collective and religious facilities. When a masterplan undergoes a revision process, then compliance to mandatory minimum requirements is verified, and standards are always met also due to the extensive presence of Catholic structures. Through a hyper-formalistic application of procedures, municipalities find themselves technically justified to disregard the religiously diverse horizon and avoid planning for it. Every new request coming from any religious group has to go through an ad-hoc political scrutiny, evaluating the group itself, with a wide margin for discretion and without more broadly considering changing needs posed by the increasingly pluralistic situation. In other words, planning first provides an implicit justification to postpone the discourse and then provides the formal "excuse" to act case-by-case and apply different treatments to different groups, eventually bending land use to accommodate some without passing through the city council approval. This is a first step in what Dunn (2004) names as a discourse of absence, through which "groups of people can be constructed as non-existent" so that "their claims to belonging and citizenship are fundamentally injured" (p. 334).

Strategies of concealment build first on this absence and then seal it through the application of norms allowing circumvention of land use rules. The differentiated application of regulations depending on who is advancing the claim constitutes the technical road to the reproduction of a landscape where groups experience differentiated degrees of legitimacy: while those in administrations' good graces are granted the possibility of accessing public, quality space, others are forced to accept a position of marginality. The absence of any coordination among different types of spatial regulations (prominently among regulations concerning urban standards and those on private circles) allows the topic to be kept off-board, relegating, once again, the accommodation of religious diversity to a side issue mostly of private concern, thus "external and alien to the local community" (Naylor & Ryan, 2002, p. 54).

Finally, refusal strategies build upon this same "technical material" but act by over-romanticising the relevance of compliance to planning requirements, particularly

land and building use. Any digression is easily mobilised as an element for delegitimization sufficient to impose displacement. Here, use conformity constitutes the core criterion from which a whole set of other requirements (i.e. distance, parking) is derived, justified solely by the religious nature of the activity.

*Cultural.* Cultural limits concern the way in which formally secular tools and procedures have been "mistakenly assumed to be linear and universal" (Hatziprokopiou & Evergeti; 2015, p. 605) and value free, while instead being convoluted and partial. Far from an ideal image of neutrality, biases are constantly incorporated within, and spatialized through, planning. On the one hand this process operates by embracing the incoherent (Cavanaugh, 2009) secular assumption concerning division among the cultural and religious spheres (Asad, 1993), and, on the other, by favouring the historically predominant Catholic model. These apparently contradictory aspects (reinforcement of secular instances and reproduction of Catholic spatiality) in fact not only coexist, but support each other. For instance, tools such as standards for religious facilities – although appearing to be an impartial solution to the accommodation of plural claims – operate through the idea that religious spaces can and should be planned separately, and following different procedures, from cultural ones (Buchardt, 2019). Simultaneously, they operate confirming an urban configuration in which a building or a complex is entirely used for religious ends and corresponds to a purpose-dedicated area, as has been typical of Catholic churches. Hybrid solutions, such as retrofitted commercial spaces, which are more at hand for many groups, fall outside the model and are consequently deemed unacceptable. While remaining formally impartial, administrations thus operate, first, by defining (recognizing or rejecting) a group's religious identity and, second, by contingently allocating specific groups to specific areas, becoming "involved in the regulation of religious life to an unprecedent[ed] degree" (Mahmood, 2016, p. 2).

These problematic implications are maximized in Veneto. Here, together with increasing diversification, the definition of "place of worship" has been amplified to account for the presence of various spatial practices (LR 12/2016), while the standards for religious facilities have been kept unchanged, along with the procedures for their determination. This divergence results in a clash caused by the underlying inconsistency between these two fundamental concepts available for the regulation of religious expression, so that those spaces defined as "religious" are almost always found outside the intended, public, areas.

In everyday practice the ambiguity of this cultural–religious separation is mobilised in different, even opposite ways, to nurture strategies of both concealment and refusal. Strategies of concealment leverage the ambiguity of these formally separate domains to circumvent planning regulations. While this results in silently enabling the use of buildings by non-Catholic groups, it does so by maintaining them in a position of subalternity. Conversely, strategies of refusal leverage not the categories' ambiguity, but instead their formal separation, mobilised to delegitimize and displace groups that, registered as "cultural," make what seems to be a "religious use" of the space, interpreted as a violation of the spatial model, of land regulations,

and therefore illegal. Overall, these strategies build on the possibility of instrumentally according (or refusing) the label of "religious," consequently shifting the border among public and private (Berg, 2019).

*Political.* Political limits concern the unclear allocation of responsibilities between planning and politics, the subordination of planning to local political discretion and the lack of whatever ethical reference for action. If in Italy politics constantly hides behind technical regulations and parameters – as demonstrated for instance by the cases occurring in Legnago or Oppeano – at the same time, planning choices are almost entirely shaped by the political majority party's proposals and are directly approved by the municipal council, then planning choices are unavoidably determined by political processes. This is a circular mechanism, in which it is impossible to distinguish who is entitled to do what, making it easy for both – elected representatives and planners – to disregard their responsibility. This tendency is strengthened by the generalist requirements imposed by LR 12/2016; for instance, who should determine the appropriate distance from other religious spaces remains unclear; it is also obscure on what ground appropriateness ought to be determined. Regardless of such lack of clarity, excessive proximity seems sufficient technical justification to (politically) reject a building request aimed at realising a collective facility. In short, any variation necessary to allow the regular presence of religious groups requires a political pronouncement, so that the accommodation of religious claims, far from automatic, implies a case-by-case evaluation of merit. The resulting dependency of planning on local politics is strengthened by the complete absence of a wider frame of reference orienting practice toward diversity: national planning guidelines are lacking, the Constitution is not directly implementable, and jurisprudence's relevance is limited to case law. In this way the translation of general principles of freedom and equality is left totally to the local political arbitrium. This not only means that planners, as employers in municipalities, are not required to account for pluralism or to advocate in favour of particular groups some ethical position, but it means that planners are expected to use their margin of discretion to manipulate planning tools to better accommodate political stances, even when if this implies advising religious groups to bypass land use regulations as in concealment strategies. Overall, if it is planning that provides a (unreliable and flexible) grammar, it is surely politics that provides the logic (Mazza, 2009), and, in the examined cases, this logic tends not to embrace a diverse horizon for action; but rather favours regressive processes in the sense of neglecting the public relevance of some while recognizing that of others, creating a twin-track of recognition and legitimacy.

## *Conclusions*

Looking at the homogeneity of Italian religious cityscapes this paper examines how municipalities maintain such an unvaried picture. The work then further questions whether planning – as currently configured in Italy – can be expected to contribute to the formation of more diverse cities.

What emerges is a discomfiting picture in which minority religious groups are systematically eschewed both from the public arena and the city through strategies of avoidance, concealment, and refusal. These strategies are backed by planning, which provides administrations with support and justifications. Planning not only appears technically incapable of bridging social and spatial change but also seems religiously biased, despite being presented as neutral and objective. An unclear allocation of responsibility between planning and politics further contributes to an enduring situation in which minority religious demands remain unaddressed. Planners argue that handling such requests should be a political duty; political leaders hide behind technical loopholes. The result is an endless circle of deniable responsibility.

Of course, these considerations stem from research that is both spatially and temporally located, and as such, unavoidably limited. Nevertheless, the case offers clues for further reflection on the role that planning, intended as an exercise of public authority, can credibly play in a social context characterised by the lack of a multicultural frame for action. In such situations, which are surely not exclusive to Italy, appealing to flexibility or planners' sensibility is probably neither feasible nor sufficient to enhance diversity. This is both because planners work on such matters is prominently to operationalise political stances, and because some support the conservative visions of local governments. Thus, instead of calling for increased individual responsibility, an attentive and systematic deconstruction of planning premises and structural biases is required that can lead to redesigned planning tools and procedures. In this way, even if planners are unwilling or unable to ensure the adoption of an approach committed to diversity – because decisions depend on elected political bodies – improved processes could make it more difficult to use planning to legitimise implicit or deliberate exclusion. Thus, when it occurs, exclusion would have to be justified solely in political terms, without the support provided by an apparently neutral, but in truth partisan, 'technical rationale'.

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# CHAPTER 2

# Stories of "mosques out of place" : planning beyond the ideology of use conformity

***Abstract***

*In the last few decades, many have turned their attention to controversies surrounding the location of Muslim groups and have pointed out how, frequently, law and planning are instrumentally used to articulate racist and Islamophobic feelings in more acceptable or "neutral" language. In this sense, complaints about unconformity with building and land use have been interpreted, together with arguments over noise, parking and hygiene, as excuses mobilized to get rid of some group, generally Muslims. Throughout the examination of some cases of "mosques out of place" in Veneto, in northeast Italy, and mostly relying on critical legal geography and critical secular scholarship, this paper argues that there is more to the issue and that discourses over use conformity are not mere excuses. They contribute to normalizing and keeping unaltered socio-cultural expectations about both religion and space, emerging therefore as a constitutive part of the problem.*
*To support this argument, this work discusses three interlaced, problematic "either/or" assumptions that, while central to keeping this exclusionary system active, can, if critically assessed, work as starting points for its revision.*

***Key words:*** use conformity, spatial regulation, Islam, religion, culture

## *1. Introduction*

When starting to work on the location of religion (Knott, 2005), I made few attempts to contact a Muslim group that, on paper, seemed to have a particularly interesting story. Introducing the research, I asked their availability to tell me more about the conflict that had raged when they acquired a space to make what, back then, I uncritically named as a "place of worship". I received a short answer saying how they were not a religious group but a cultural association. Right after that they blocked my contact, making thus clear how their process of location was a sensitive issue which they were not willing to discuss any further.

A few years prior, the group had bought a former warehouse in the outskirt of a small town, they were then readily accused of making a mosque in disguise, hiding their religious intents behind the façade of a cultural and sportive association. Against this argument, they appealed to the local administrative court which, however, decided against them by declaring their nonconformity with land use regulation because of the group's "religious" and not "cultural" nature.

This is not an isolated case. In Italy, there are fewer than ten purposely built Muslim places of worship for a Muslim population of over 1,6 millions[1] (ISMU, 2019). Muslims generally gather for communitarian activities in former commercial or industrial spaces in urban outskirts (Allievi, 1999; Chiodelli, 2015; Rebessi, 2011; Rhazzali & Equizi, 2013; Russo, 2018), facing frequent hostility and accused of not conforming to regulations.

Many have therefore stressed how spatial regulation often provide a road to mask Islamophobic sentiments allowing them to be expressed in a seemingly neutral way through reference to land use, noise and parking (Cesari, 2005; Eade, 1996; Kuppinger, 2014; Sandercock, 1998). However, stories such as the one briefly reported can suggest the necessity of reflecting on how a mode of planning greatly relying on what I will call the "ideology of use conformity" not only works to provide a cover for discriminatory instances but, more importantly, incarnates and amplify those instances.

Through the examination of over thirty cases of conflict over Muslim mosques "out of place" (Cresswell, 1996) in Veneto, a region in northeast Italy, and relying on critical legal geography and critical secular scholarship, this work will show how a kind of planning rooted in the ideology of use conformance reinforces an exclusionary logic rooted, on one side, in a binary understanding of the law and, on the other, in an essentialized and static understanding of religion. In order to make this argument the paper will, first, show how use conformity, in Italy, is a very powerful argument against the settlement of Muslim groups in a way that is relevantly different from other instances (i.e. noise, hygiene, parking). Then, through three case studies, it uncovers three assumptions over religion and its emplacement. These assumptions are

[1] Some estimate up to 2,6 millions (Ciocca, 2019)

simultaneously central to the normalization and spatialization of religion and functional to the maintenance of a deeply exclusionary logic. The last part of the paper will critically assess these assumptions and take them as a starting point for a possible revision of planning's mode of operation.

## *2. Context and methodology*

The article is based on an analysis of over thirty cases[2] of conflicts over the settlement of Muslim groups in Veneto. They constitute the totality of the cases that I was able to identify as occurring in the region during the last decade. The choice of pursuing the research in Veneto is due both to demographic and legal factors. Demographically, as a region, Veneto has the fourth largest number of migrants in Italy, and it is the third largest for the estimated number of Muslims (Ciocca, 2019). The number of Muslims settled here is about 134,000, of these about 20,000 are located in Venice (the region's capital), where they make up about 10% of the city's population. While some "cultural centres" are present, officially recognized Muslim places of worship are still lacking.

Legally, Veneto is part of a group of regions that in the last years have approved planning norms directly aimed at further regulating the possibility of using and realizing religious facilities. Even if the law requirements are phrased in general terms, thus formally leaving open a wide range of possible applications, yet their intent was primarily that to limit the spread of Muslim places so that these norms are often informally referred to as "anti-mosque laws". As will be better explained later, one of the main characteristic of such laws is that of making stricter planning requirements of use conformity.

The materials on which the research relied are mixed. For all cases, press review documents were readily available: more than 150 media sources, including newspaper articles and videos, have been reviewed. They worked as a point of departure as well as a source of information on the discursive relevance of the concept of use conformity in the way the media, the general public and private actors (when interviewed) approached the issue of location of the Muslim groups. For 14 cases (all those who appealed to the Court), jurisprudence documents were also available[3] for a total of 19

[2] Cases unfolded in the following Municipalities: Arcole, Arsiero, Arzignano, Bussolengo, Cittadella, Cerea, Cornedo Vicentino, Fonzaso, Jesolo, Legnago (2 cases), Monteforte d'Alpone, Morubio, Nervesa della Battaglia, Oppeano (3 cases), Padova, Paderno di Gonzano, San Bonifacio, Soligo, Thiene, Treviso, Venezia (5 cases), Verona (2 cases), Villorba, Vittorio Veneto, and S. Stino di Livenza.

[3] Arcole (TAR 6331/2010; Cons. St. 3534/2012; Aff.1998/2018), Arsiero (TAR 287/2017), Cittadella (TAR 464/2014; Cons. St.4188/2015 ), Cornedo Vicentino (TAR 34/2017;TAR 188/2017), Fonzaso (TAR 707/2014) , Morubio (TAR 369/2012), Nervesa della Battaglia (TAR 1173/2009; TAR 134/2010; TAR 166/2010), Oppeano (TAR 627/2014), Soligo, (Aff. 805/2013; Cons. St. 2489/2014);

sentences, including both first and second degrees of justice. The analysis of such material allowed me to point out not only the discursive presence of use conformity but the way in which it is normatively mobilized. Also, in 14 cases, in depth qualitative, semi-structured interviews were pursued for a total of about 20 interviewees (For more details on the municipalities please refer to Table 2 in the dissertation introduction) . The interviews addressed both cases that were discussed in court and those that were not. They included planners working for public administrations, members in leading positions in Muslim groups, police officers responsible for the areas of conflict, defendant lawyers and other figures in positions of responsibility. Finally, although for only three cases, some literature was also available and has been reviewed.

## *3. Drawing the borders of religion*

The theoretical basis for this work is constituted by the conjoined insights of critical legal geography and critical secular scholarship which nourish and integrate planning literature.

The former has its core argument in the fact that law and space reciprocally configure each other. Since "law is always 'worlded' in some way" (Braverman et al., 2014, p. 1) then the legal and the spatial cannot, and should not, be interpreted discretely. The starting point from which critical legal geographers have moved is that of critical legal scholarship (Unger, 1983; Trubek, 1984). This not only refuses autoreferential understandings of the law that are myopic and blind to the exchanges between legal structures and the outside world (Friedman, 1975), but pushes this relational understanding to the extreme, asserting first, how law is politics (Tamanaha, 2006) and is thus inherently social, and, second, how it incorporates ideological structures that need to be deconstructed because they are functional in the maintenance and reinforcement of consolidated powers. With geographers, space becomes an additional factor to be included in this paradigm: it means that it is not only law which incorporates ideological structures; space is understood as doing the same. Beyond a shared interest in the interaction between law and space, critical legal geography presents itself as a quite heterogeneous field (Delaney, 2015). At least two main – often interconnected – branches can be recognized as cutting across this literature. The former (Bennett, 2016; Delaney, 2003; Layard, 2010; Silbey & Cavicchi, 2005) delineates "processes and actors of place formation" (Bennett, 2016, p. 183) uncovering how "entities such as the home, the corporation, the environment (…) are legally constituted and reconstituted" and are "made meaningful in

Venezia ("The Mosque": TAR 346/2015; Madonna Pellegrina: TAR 286/2019; Cons. St. 2788/2019), Verona (Via Biondani:TAR 667/2011; Via Chinotto: TAR 357/2017), Villorba (TAR 2347/05),

distinctively legal ways" (Delaney, 2015, p. 98). The latter (i.e. Blomley, 2020; Brighenti, 2010; Mitchel, 1997; Waldron, 1991) is concerned with outlining how law controls access to places and movement across them. This second body of works expose how "bold" deeply grounded legal structures, as for instance that of private property (Blomley, 2020), impact in unobvious ways the life of particular social groups.

Building on such insights, emerge some points of interest for this work: the first is that if such entities as the home or the corporation are thought to be legally constituted, then the same kind of logic can be thought to be similarly applicable to places of worship. Following this line of thought they would emerge not as something that always existed statically and equal to itself, but instead as something that is continuously changing because of the degree and the forms of legal recognition.

The second insight that can be derived from critical geography literature is that in the same way that the existence of places of worship cannot be understood in independence from the set of rules to which they are related; similarly, the possibility of access, meaning entering, having access to, and making use of a material place of worship, is also defined through legal and spatio-legal tools. While the intersection between law and religious spatiality has rarely been touched on by critical legal geographers (Bukhari, 1982; Cooper, 1996; Cooper & Herman, 1999) the theme has been increasingly discussed in jurisprudence (Bettetini, 2010; Bolgiani, 2013; Fabbri, 2013; Marchei, 2017; Saxer, 1996; Walker, 1982), and, in different forms, in other fields such as planning, sociology or geography (Burchardt, 2019; Chiodelli & Moroni, 2017; Gale, 2005; Gale & Naylor, 2002; Nye, 1998). All this appears particularly telling if read together with the hints coming from scholars belonging to critical secular scholarship (i.e. Asad, 1993; Cavanaugh, 2009; Fitzgerald, 2007; Mahmood, 2016; Nongbri, 2013). While, of course, they are not the sole group of scholars interested in religion, they are those who more openly scrutinize its embeddedness in common sense (Fitzgerald, 2007) and question its existence as a given. Again, two major points can be recognized as characterizing this literature. The first is that religion is neither the opposite of the secular nor is it a "'thing' in itself, which exists across humanity as a universal" (Nye, 2019, p. 50); rather, it is an ideological construct rooted in the Christian European colonial past (Masuzawa, 2005) constantly co-constituted with the secular (Asad, 1993). This to the extent that Agrama (2012) compares the religious-secular relation to the famous Esher lithography of the two hands reciprocally drawing each other. This does not simply say that religion is not universal and is not ahistorical, which is already more than what is generally acknowledged, it also says that the specificities of what goes by the name of "religion" are not eternal but are subject to change and cannot be neatly separated by other expressions of society. Religious rites, practices, uses, organizations and spaces have been moulded in interdependence with forces that are generally labelled as secular: economy, science, law and urban structures, to name only some. The second, related, argument is that the forceful separation among the religious and the secular come along with the relegation of the former to the private

sphere (i.e Casanova, 1992; Cavanaugh, 2009; Mahmood, 2016; Sullivan, 2005). In order to operationalize the distinction between religious and the secular, the former had to be re-described not as a particularly social phenomenon, but as a mostly individual one with some eventual facets of public collective presence (such as places of worship) which come to be strictly regulated.

Simultaneously reading literature in critical legal geography and critical secular scholarship yields the questions which guide the present work: in operative terms, is there some planning tool (as for instance zoning) responsible for the spatial definition of the legal concept of religion? If yes, which assumptions about religion are strengthen, hidden or maintained by it? Is there room to rethink those assumptions and the way we inscribe religion in space?

Much of what follows will attempt to show that the "ideology of use conformity", which characterizes a great part of spatial regulation, plays a predominant role in the maintenance, and continuous re-inscription, of a predetermined model of religion in, and through, space. Before discussing this, it is however worth assessing two preliminary points: what we mean by use conformity and conformity to what.

## *4. What we mean by use conformity?*

Space cannot be used freely as we like. To a great extent, both permanent and temporary practices are spatially regulated; to take place somewhere they ought to respect certain rules, parameters and procedures as prescribed by law. In other terms, spatial regulation affects rights in land and constitute a limit to the possibility of freely disposing of both public and private properties; this on the behalf of others' legitimate interests in those spaces (Needham, 2006). In the name of ordered urban development, and eventually with the intent of achieving some other social and economic ends through it (Urbani, 2013), spatial norms regulate who can do what, how it can be done and when it can be done. The issue of use conformity primarily regards the "what" side of this story: "whom" and "how" are influenced by reflection. An approach to spatial regulation centred on use conformance is an approach which expects correspondence between what is allowed on paper – masterplans, building practicability papers, administrative authorizations – and the activity that actually takes place. The word "what" here refers more properly to a "class of activities" (Ellickson, 1973, p. 692). They are categories (residential, commercial, religious, cultural, etc.) which are generally understood as discrete and mutually exclusive with the aim of preventing (Ellickson, 1973) incompatible uses from happening next to one another (Chung, 1994). This effort of prevention is bound to some assumptions: (a) the assumption that activities can be ordered according to predeterminate classes; (b) the assumption that some among these classes are incompatible; (c) the preferability of subordinating any other way to solve controversies in the requirements of conformity to these classes. While zoning (see Talen (2012) for an historic account) can be the tool that more clearly incarnates such an understanding of spatial regulation

(Ellickson, 1973; Chung, 1994; Coase, 1960), it is not the only one. From a closer look at regulations of space, not only are areas ordered depending on the uses that are allowed to occur there, but single buildings are also generally associated with restrictions upon use. Similarly, the authorizations for temporary activities (to be asked through administrative forms) are often released on the grounds of the type of activity proposed. Ultimately, requirements of use conformity underpin spatial regulation quite widely and a whole set of rights and duties come attached with use.

## *5. Conformity to what?*

Given the relevance of use conformity to the way we all are allowed to experience space, it seems relevant to question to what we are asked to conform. While planning and building codes ask religious groups to conform to use regulations, what and whom in the legal sense ought to be named as religious is still uncertain both in Italy and abroad (Madera, 2015). This section illustrates the sources relevant to this discussion and underlines the passages in which the ambiguity of how religion gets to be included in spatial regulations emerges with more clarity.

### *5.1 Supra-local scale*

Reference to "religion" is made both at the international level (i.e. ECtHR art.9) and in the national constitution (Art 8,9,19). Here Articles 8 establishes that all confessions are "equally free before the law". This promise of liberty includes the possibility of freely performing religious belonging both in individual or collective forms (Art. 19). However, neither the European legal frame nor the national constitution provide a clear definition of religion, it is only mentioned generically and without direct connection with a spatial element or duty of conformance.

Moving down to the national level, religion intersects with spatial regulation. Law 1444/1968 determines that religious spaces are public facilities that serve the general interest and have a legally recognized public value.

While this legal configuration implies the simultaneous affirmation, on one side, of a system of negative liberty, (the state – at any level- should avoid taking actions preventing the free exercise of worship) and on the other of a system of positive liberty (Cc 67/2017; Cc 254/2019) in that public authorities have, on paper, the duty to create the conditions for worship to be enacted both individually or collectively (Cc 67/2017). Yet, no further clarification is provided regarding the definition of religion or of what should be considered as being "religious".

In this way, the inherent vagueness in characterizations of religion is spatialized and tied to determinate areas (identified by masterplans as areas for collective religious facilities), buildings (places of worship) and procedures (land use). The implications of this association are two-fold. On the one hand, being recognized as

religious entitles one to ask for access to public areas and to economic contributes aimed at the construction or maintenance of religious buildings. On the other hand, however, since the association between religious uses and public areas has been widely interpreted as exclusive, assuming that religious activities could only be pursued in spaces precisely identified by masterplans, then when these areas are few or absent the possibility of groups of legally settling is consistently restricted or even nullified.

In the absence of alternative options for groups, instead of registering as religious, they register as private associations and start to use commercial, residential and industrial empty spaces. In legal terms, this road is unwillingly opened by a national norm (Ll 383/2000 art. 32, later Dlgs 117/2017 art. 71) that allows private sociocultural associations (APS) to be located anywhere in the city regardless of land use provisions. This law, formally, excludes groups with predominantly religious purposes from the possibility of applying it, this with the intent to maintain the "unavoidable separation among the State and the religious sphere" (note 3734/2019). Yet, since the game among Muslims and their detractors is played exactly on the complexity of drawing a clear border between what is religious and what is not, this solution remains widely practiced. To address this "problem" some regions, such as Lombardy (LR 12/2015) and Veneto (LR 12/2016), have reacted by further regulating the matter.

### *5.2 Local Scale*

Veneto LR 12/2016, discursively named as the "antimosque law", widened the definition of "religious facilities" including in it any space used for religious intents (art.1) independently from the entitlement of the space and from the kind of activity (prayer, charity, scripture classes) pursued in it. Apart from the awkwardly tautological form of this definition, what ought to be noted is how this opening is neither accompanied by a widening of available spaces nor from a loosening in land use requirements. On the opposite side of things, the law stresses how religious spaces – whatever they are – can only be located in areas zoned as religious facilities, thus increasingly linking a wide, loose and vague set of activities to an incredibly narrow range of possible spatial options. Also LR 12/2016 introduced a whole set of discretionary conditions for religious facilities to be built as appropriate space for parking, appropriate distance among buildings of different confessions. If it is true that these conditions are phrased in the law in very loose terms – hence avoiding setting exact quantities – and leaving wide space to discretion, it is at the same also true that these requirements are newly introduced and thus ask to consider additional factors and impose additional obstacles to the construction of religious places comparing to the previous condition. As if this was not enough, the law gives administrations the possibility to require a local consultative referendum and the stipulation of a specific convention in which the religious groups are asked to guarantee that they will satisfy their planning duties. All of these measures are only

justified in the name of the religious nature of the activity and are not similarly required for other collective activities. Unsurprisingly, both the object (what is religious and what is a place of worship) and the subject (who is entitled to have one) remain blurred once again.

Finally, at the end of the hierarchy, municipalities are responsible for land use and are asked to accommodate religious spaces. However, this does not necessarily happen. Frequently, administrations do not make any provisions to facilitate the localization of Muslims, and there is no institution nor procedure entitled to check if land use planning is responsible for systematic exclusion. This kind of negligence generally goes unpunished.

A second responsibility for municipalities is that of ensuring the respect of norms regarding the relations among private and public interests, including planning. This responsibility is pursued through administrative measures. These include decisions that public authorities take on a certain issue (i.e. the right to use a space) on the grounds of what is prescribed by public administrative laws. For instance, if a group is deemed to have illegitimately used a space for religious ends, then displacement can be enforced on the grounds of unconformity with the land use plan. It is generally at this stage, when Muslim groups takes place outside planning expectations, that the contradictions implicit in the ideology of use conformity become more evident, especially if applied to such a vague legal category as religion.

### *5.3 The relevance of jurisprudence*

The absence of a legal definition of "religion" and of "religious spaces" is accompanied by an increasing trend of judicialization (Giorgi, 2018) so that "the judiciary system becomes the preferred place where instances of freedom, neglected by—an at least formally neutral legislation, may look for forms of compensation" (Madera, 2018; p. 565).

With regard to the issue of religious spaces, there are two main kinds of jurisprudential intervention: the first is concerned to verify the coherence among norms and the constitution, while the second is concerned to verify the legitimacy of administrative measures. The first, the constitutionality check, is the responsibility of the Constitutional Court. Its intervention can only be asked by the state, the regions or judges of any level, if one doubts the grounds of the Constitutionality of the law on which they have been asked to assign a sentence. The Constitutional Court's sentences have the power to oblige specific laws under judgment to be changed, for instance, by removing some parts, but they have no direct applicability to other similar laws, for which the process should be repeated. With regard to religion and planning, the constitutional court intervened mostly if regional laws were considered unconstitutional, as for imposing excessive or disproportionate limits to freedom of religion. In particular, Veneto's law LR 12/2016 went through this step of judgement but, since it had been carefully phrased accounting for the bans that the same Court

had previously enforced on a very similar law approved in the nearby Region Lombardy (LR 2/2015), it was left basically intact.

The second type of jurisprudence intervention, the verification of administrative measures' legitimacy, is responsibility of the regional administrative tribunals (TAR). Their intervention can be asked by those who have been – supposedly unjustly– affected by an administrative measure itself (for instance a forceful closure of a prayer room). The recurrent – an individual or an association – can appeal and, in case of negative outcome, can move to a second-degree judgment (Consiglio di Stato). The sentence has the power to nullify the prescriptions of the administrative measure but does not outlaw the successive emanation of similar ones, nor implies a re-discussion of the norm on which the measure has been based. It is at this level that most battles over Muslim spaces unfold.

As will be made clearer by the case studies, many points of conflict emerge in the discussion of administrative cases, but here it is sufficient to say that courts' key discussions generally rotate around a limited set of issues: (1) effective use, meaning the necessity of establishing if the space is used religiously or not; (2) compatibility between (effective) building use and envisioned use; (3) access to the public and the necessity of establishing if the space was used as a private circle or instead as a public place open to anybody, because the two require different authorizations; (4) respect for crowding and hygiene norms; (5) additional urban load, the necessity of demonstrating if and how the space creates additional pressure on urban spaces, for instance due to traffic. Of these points, the first two are directly dependent on the nature of the activity and the third is indirectly connected to it, this because only places open to the public are generally considered as full title "places of worship". The latter two seem to be unconnected to considerations of the nature of the activity and/or of the groups using it and are instead concerned with the impact that safety of such use (whatever it is) has on the surroundings.

## *6. Is use conformity really relevant? Some facts.*

Despite the constitutive vagueness of the meaning of "religion", groups identified as religious are asked to practice their activities in precise areas of the city that are identified for public facilities. Their availability depends on decisions that municipal councils make in rather arbitrary ways and the areas may even be not available at all. In response, Muslim groups tend to settle elsewhere, claiming they are not predominantly religious but instead cultural associations which should be able to locate anywhere, this on the ground of law Dlgs 117/2017 regarding private circles,. It is generally at this point that protests that insist on conformity with, and respect for, the rule become louder.

From the analysis of 33 cases of conflicts over the location of Muslim spaces in Veneto emerges how the argument of missed use conformity with planning/ building/

or administrative uses was used to prevent Muslims from settling in the totality of cases.

In all 14 cases discussed in court, the administration used the argument of use conformity against Muslim groups. Among the 19 sentences (considering both first and second degrees of judgment), the 10 favouring Muslim groups argued that missed use compliance was insufficient to forbid the group's religious activity unless accompanied by other relevant negative urban impacts or unconformities. If we consider only the time span following 2016 (following the approval of the Veneto "antimosque law") it possible to see a relative decrease of cases that arrived in court, this is probably also due to the lack of confidence in the possibility of winning the cause. Among the four that made it to the tribunal, only one was won by the Muslim group while the remaining were in favour of the administration, condemning the group because of its noncompliance with the destination's assigned use.

In all 6 cases characterized by the presence of a major cultural centre (operating or under construction), both interviews and the analysis of the press review let emerge how both the Muslim groups and the administration allowing for the space to be realized were being very careful in referring to it as a "cultural centre" and never as a "place of worship", otherwise it would be considered to be illegal. "We are a *real* cultural centre" (President, Legnago 2019) can be the sentence summing up this tendency. Further, the requirement of use conformity as conjoined to the discretionary power of administration not only constitutes an obstacle a posteriori but also a preliminary barrier: "even presenting a restoration project to the technical office can be an imprudent exposure", a self-declaration of a status of illegality, "the more everything is silenced the better" (Lawyer, Padova 2019).[4]

Nevertheless, is it not equivalent to label a place as one of worship or as a cultural centre, if the former case is considered to be free to everyone and the construction of which can eventually be supported by public funds. In the latter case, we are instead speaking of buildings for private use to which only associates are admitted and that cannot use public funds for its realization. In addition, as all the information provided here testifies, if a cultural centre is thought to be used predominantly for religious purposes, it can be contested and its closure can be imposed by the administration on the grounds of incompliance to use conformity requirements, it is therefore at constant risk of legal retorsions and displacement.

[4] This stress on conformity appears out of context in a country in which even major building abuses are very diffuse and where even in the best performing regions, for instance Veneto, only about a fourth of demolition ordinances emitted between 2004 and 2018 have been executed (Legambiente, 2018).

## *7. Three cases of mosques out of place for three either/or troubling assumptions*

This section discusses three case studies of mosques "out of place". The intention is to uncover three problematic assumptions which are hidden beneath the push for use conformity. Such assumptions are neither innocent nor optional. They are not innocent in that they inscribe in, and reproduce within, spatial terms a specific and narrow idea of religion. They are not optional since – for how planning is currently understood in Italy and similar planning systems – it cannot do without them. These assumptions are functional to construct out of religion a planning category that can respond to a discrete conception of law, where only dichotomic relations based on use conformity are accepted.

The three cases presented here have been selected out of the pool of the total of 33 examined. The selection process considered three criteria: spatial, legal and temporal. In spatial terms, these constitute a quite varied sample of building typologies and urban contexts. The first case regards a desecrated Catholic church located in Venice historic town, the second is located in a structure initially used as a theatre, then converted to a storage area and finally used as a prayer room in a small town of about 6 th. inhabitants, and the third is located in Venice but this time in a more peripheral area on the mainland, out of the touristic circles; the building formally registered as for commercial vocation. In legal terms, these three cases all concern groups registered as cultural associations and using spaces leveraging on the possibilities opened by the norms on private circles. The first two cases have been discussed in court while the third has not. Additionally, claims against them have been articulated through all kinds of (un)conformities detected and mentioned earlier (administrative, building and land use); this indicates how the issues discussed are not a matter of a single procedure but, instead, widely underpin the logics and practices of space regulations. Lastly, from a temporal perspective, two out of three cases occurred before the approval of the "antimosque law" in 2016; the third instead followed its approval.

## *7.1 VENICE, THE MOSQUE: Either it is religious or it is not.*

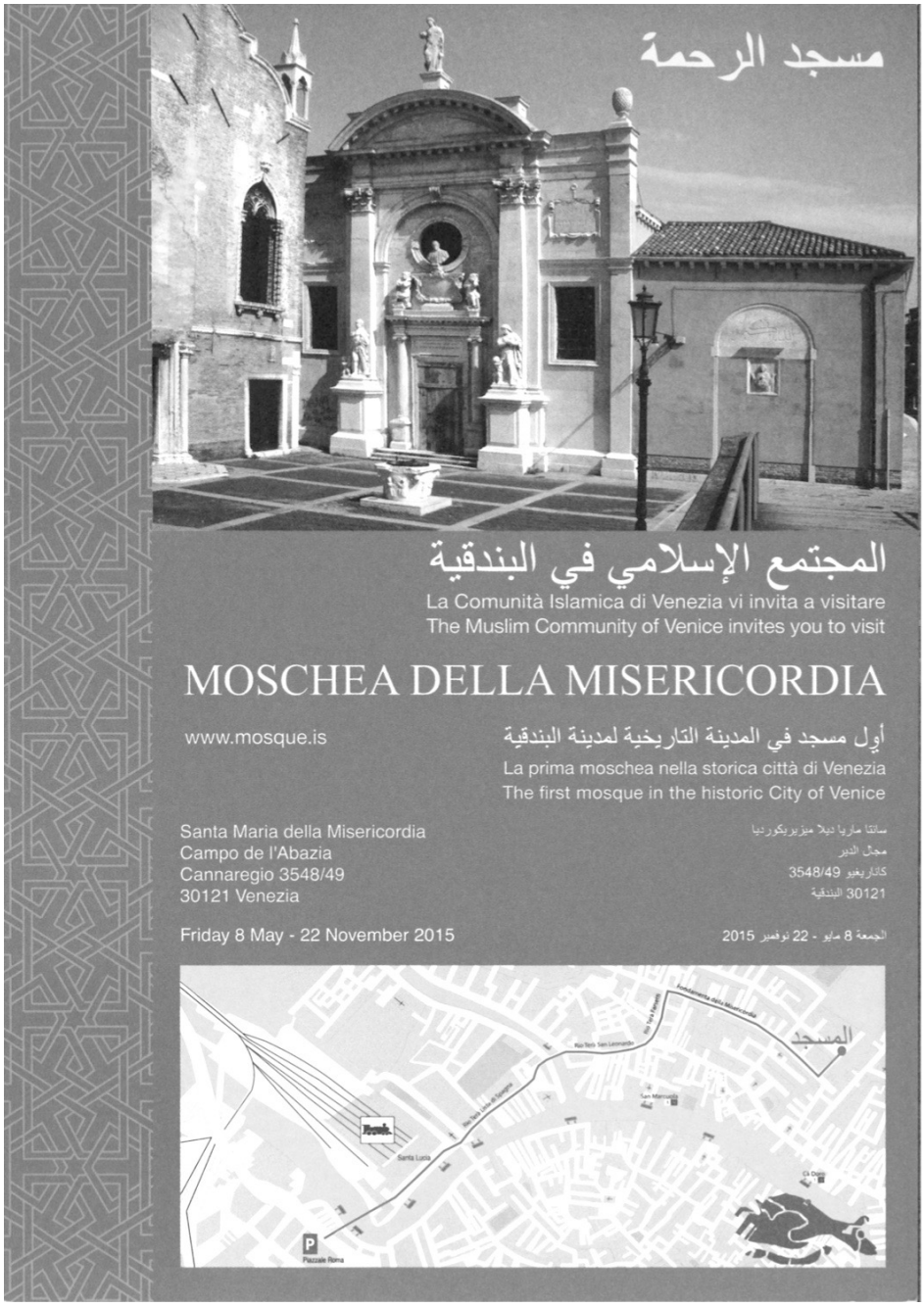


*Fig. 1 – Flyer advertising the opening of "THE MOSQUE" exhibition*

In 2015, the main Muslim group in Venice was asked by artist Christopher Büchel to collaborate on his art installation on behalf of the Islandic Pavilion for the 56th Biennale of Art[5]. The installation, titled "THE MOSQUE" (Fig.1), implied the temporary internal transformation of a privately owned, desecrated church, located in Venice old town to resemble the appearance of a functioning mosque. The artist, known for his controversial projects, proposed the work in absence of any preliminary legal inquiry, and designed it in a "legally ambiguous way" (Lawyer, 2019). The exposition was interpreted by many as a provocation to the city of Venice.

In the preparation phase, the administration discussed the project with the artist, with the Islandic Art Centre (IAC) director and with the Biennale Foundation. The Muslim community was not involved at this stage. During the meetings, the artist "agreed with city officials' demands to censor design elements proposed for the exterior of the Pavilion, including Arabic or Italian inscriptions (i.e. "Mercy") that the officials insisted would constitute a public threat" (IAC, jurisprudence record, 2015).

The municipality also asked for total assurance that the exposition space would not be used to hold any religious activity or its authorization would be revoked. The imposition was based on the grounds of alleged administrative inconsistency between the authorization required to hold the art exhibition (SCIA 2015/184738) from the one needed to hold religious gatherings. Apparently acquiescing to the request, the IAC replied how the throne and the lavatories (items invested with specific religious meaning) had the sole intent to reproduce the image of a mosque and were not for visitors' effective use. The IAC, however, also remarked how, according to land use regulations, it was permitted to use the space both for associative and religious uses but how, despite this, religious functions would not be held during hours that were open to the public. Right after the inauguration, a series of protests exploded, advanced both by individuals and organized groups. In the protestors' view, it was not an art exhibition but a full Muslim place of worship; to them it lacked respect for Italian culture, Catholic heritage and the city's regulations. After only three weeks of activities, the authorization had been revoked on the grounds of excessive crowding (during the inauguration, 105 people were allowed in, which was over the maximum of 100 that had been authorized) and that lavatories were used for ritual abductions. The administration also blamed the IAC for having allowed religious functions during opening hours and for only granting access to part of the space after the removal of shoes (interpreting it as a sign of it being a place of worship). In their view, "the whole thing had nothing to do with an art exhibition" (Minutes 3.05.2015).

The closure was challenged by the IAC in front of the regional administrative court. They maintained that no specific authorization is needed for religious uses to be held in private buildings, even if open to the public, especially if the activity is not cause of additional urban load and if it is carried where land and building regulation allows

[5] See also Bialasiewicz (2017)

religious uses. In the IAC perspective, the municipality had abused its powers by enacting unmotivated restriction of liberties (religious, but also the private interests of the IAC, the Biennale Foundation and the building owner) and had failed to seize the artistic reach of the exhibition, this despite the enthusiasm of much of the Italian and international art criticism. In absence of a consistent public reason, they continued, there were no justifications to intervene if not those of arbitrarily limiting the rights of Muslims.

Despite these arguments, the tribunal resolved in favour of the municipality on the base of inconsistencies among the administrative authorization provided – for an art exhibition – with its effective use – interpreted as religious (TAR 346/2015). The lawyer proposed to recur in the second degree moving, "in the direction of a judicial protection [evaluation of merit] on "what is art, what is representation, what is worship" (Lawyer, 2019), the IAC, however, decided to close the space and drop the cause, leaving these questions unanswered.

The analysis of this case helps to understand a fundamental premise necessary to the discourse of use conformity: either something is religious or it is not.

To fit into the logic of spatial regulation, this based on conformity, religion is thought to be a thing; it is domesticated, safely caged behind the walls of a box and treated as if having clear borders. While this can be an analytically defensible tactic, "what is indefensible is the tendency to then think that the box is reality" (Tamanaha, 1997, p. 63). In order to be included in norms, and, in particular, in norms having spatial relevance, religion is not read in its variability and in its relation with adjacent categories, but, on the contrary, its fixity and discrete functionality are assumed (Fitzgerald, 2007). Through a simultaneous process of objectification and separation, religion is unambiguously connected to a set of items, places and behaviours used to fulfil a predetermined idea of religion as separate and prior to action. In such understanding, "religious facilities" while vaguely and only tautologically defined, come to be associated with a limited range of spatial possibilities so that the use of lavatories is cast as religious (but not artistic), the presence of carpets on the floor becomes a clear indication of religious (and not cultural or artistic use) and the Muslim use of a former church is clearly out of place. Generally, none of these links is expected to need an explanation since, as seen above, the category of religion is assumed to be self-evident to the extent that to define it becomes "far less important than to possess the ability to recognise it when we come across it" (Sharpe as cited in Nongbri, 2013, p. 15).

Tensions arise when this narrow understanding of law and religion is confronted with the more "eclectic" behaviour enacted by Muslim groups (in this case supported and encouraged by the artist). They act neither in conformance nor in opposition with spatial regulations but more properly "in light of the rule" (Chiodelli & Moroni, 2014), thus acknowledging the rule and adjusting both their identity and behaviour to it so to continue conducting their activity remaining as close as possible to a condition of legality (for a more complete explanation see Chapter 3) . They continuously reshape themselves in the attempt to fit one or the other category and, by doing this, they short-

circuit a logic based on ideally separate, mutually exclusive boxes. By jumping from one to the other, they show how the ideal of religion enshrined in planning norms and used as an ordering device (Blomley, 2003) is much more fragile than generally understood. Muslim spatial behaviour breaks some of the logical bases on which spatial regulation is grounded. These bases are "the Principle of Identity (if anything is A, it is A)" which imply that any activity, space or object can only be reconducted to a single function or label and "the Principle of Contradiction (nothing can be both A and Not A)" (Jay, 1981, p. 42) which implies that once an activity is labelled in a certain way it cannot be, at the same time, also something else. In a counterintuitive logic Muslims traverse pre-established use categories so that, a church is not simply a church but could turn out to be a mosque; similarly, collective prayer is not necessarily, or only, religious, but could also be art.

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*7.2 ARCOLE: Either it can be there or it cannot*

*Fig. 2 – Muslims praying in a parking in Arcole after the forceful closure of their space (Source: L'Arena)*

The second case concerns a lengthy controversy started in 2010 and involving one of the oldest of Veneto's Muslim groups, initially based in Arcole, a municipality with little more than 6,000 inhabitants. The group settled in a building that was originally a theatre, converted then to a storage and finally acquired from the Muslim community to be used for their activities, including prayers.

The administration showed hostility and required technicians and police to verify if everything was happening within the bounds of legality. Controls highlighted some

building violations, such as the construction of a mezzanine and other minor changes, some of which probably preceded the settlement of the Muslim group (Cons. St. 3534/2012). Controls also confirmed how the use that was being made, identified by authorities as mainly religious, was incompatible with both land and building use formal destination. The municipality intervened, requiring the community to return the building to its original configuration and to stop their activities. When the association responded by starting the demolition of the mezzanine and asking for regularization of the other minor interventions without, however, repristinating the storage use, the municipality condemned the building and forcefully broke in, impeding any further use. It simultaneously rejected the regularization request, arguing it had been forwarded after the expiration of the time limit. Muslims prayed in a nearby parking lot (Fig.2) for over a year and filed a legal procedure against the municipality. In the first degree, the administration was favoured on the grounds of an alleged mistake in the way the legal procedure had been forwarded, the evaluation was then reversed by the second degree, and, more recently, in 2018, by a third sentence.

What is relevant here is how the administration went after the group only on the grounds of some minor abuses that would have been insufficient anyway to foreclose on the building (Cons. St. 3534/2012), and of the fact that, in the administration understanding, the use that the group was getting out of the space did not conform to planning and building use regulation. Jurisprudence reports write that the group had been mainly found guilty of converting "the use destination to that of place of worship" (TAR 6331/2010), something deemed incompatible with the masterplan's prescriptions (art. 53 NTA). The ruling outlines how places of worship are only allowed in areas zoned for public facilities and only in presence of the necessary urban standards (i.e. parking). The municipality had no other card to play if not that of unconformity to land and building use regulation, which was proved – in their view – by the sole fact that about 50 people on Fridays at noon would gather in front of what the administration named a "mosque" to enter the building after removing their shoes (Cons. St. 01998/2018).

In none of the court rulings, neither those in favour of the administration nor those against any externality such as noise or excessive urban load was mentioned. The ground on which the administration based its argument seemed inadmissible to the court, which finally resolved in favour of the Muslim group because of insufficient evidence.

In cases such as this, where administrations mobilize the only point of use conformity, we can clearly see how in this logic, religion is not only treated as a definite thing (either it is religious or is not) but as an essentialized thing. The assumption here is that it can be judged independently from its public relevance and from the external effects it generates, on the sole ground of its supposed nature. So, it is either there or it is not, and its desirability can be determined based on its supposed "essence".

When translated in spatial terms, this means that places used by Muslims can be attacked not only on the ground of their characteristics (i.e. lack of safety requirements) and eventual external effects (i.e. noise or traffic), eventually deemed to negatively impact others' "legitimate interests" of experiencing the city but also, and primarily, for what others identify as the "true nature" of their use. They are attacked *qua* religious. Spelling this out in the language of nuisance — or harm (Cooper, 2004), rather than that of land use, makes the indefensible traits of this logic emerge clearer. In cases as the one outlined above, practicing religion is, independent of any other evaluation, treated as a nuisance, a burden that as such ought to be eliminated. While, as convincingly argued by Waldron (1987, 2000), the emotional distress that can come from closeness to something deemed morally or culturally undesirable is not, *per se*, to be considered an annoyance sufficient to take countermeasures – in his view, it is not to be considered an annoyance at all, but "something to be welcome[d], nurtured and encouraged" (1987, p. 413) – and thus should not constitute an obstacle to the settlement of any activity. Considerations of this kind are systematically eschewed in the application of land use regulations, which tend to ambiguously conflate evaluations of how activities impact others' legitimate interests with evaluation of the desirability of someone's (or some activity's) mere presence.

### *7.3 VENICE, VIA FOGAZZARO. Either its external effects are admissible or not.*


*Fig. 3 – Banners protesting against the presence of a Muslim cultural centre (source: La Nuova Venezia)*

This last case is located in a mainland residential neighbourhood in Venice. It has been the most heavily discussed case of a series of controversies involving Muslim groups gathering in commercial spaces on the ground floor of residential buildings. While the space had been used by a large and increasing number of Muslims since 2010, neighbours' protests, which were already occasionally happening, became louder in 2016 after the group finally bought the building after renting it for years[6].

Until a few years before, the road had been felt to be a "paradise" (Resident, 2016, media interview[7]) but more recently residents denounced increasing crime and degradation for which they blamed Muslims. The presence of the prayer room was often associated with the worsening of life conditions and inhabitants urged respect for the rules. Given the commercial vocation of the space used by Muslims, and the way that use contrasted its religious function, the space was identified as "born in the illegality" (Comitato Marco Polo 2016, media interview[8]) and residents loudly requested that, "in the same way in which we respect [rules], they also should" (Resident, 2017, media interview[9]).

Some, while protesting against the presence of the prayer room, also underlined how "they have nothing against them" (Resident, 2017, media interview[10]) but are tired of a type of cohabitation that became unbearable due to noise and general degradation of the area. In 2016, in response to the stream of recurrent complaints, the administration required that the space be converted back to its original commercial function and to make some internal building works. The group began to do the renovation works but refused to reconvert the space back to its commercial use. Conflict rapidly escalated, and in May 2017, neighbours hung banners displaying messages such as "Law 12/2016 must be respected" or "Legality=civilization". A few days afterwards, the municipality issued an administrative measure to impose the permanent closure of the space.

In the first instance, the Muslim group reacted by threatening to start praying in the streets and to strike from working, which would have impacted the shipyard where about three thousand Muslim Bangladeshi were employed at the time. They revendicated their religious rights and argued that it was their legal right to have a place to pray, as stated in the country's constitution. The planning councillor replied by saying that the municipality would not bend to any threat and that everyone had the obligation to respect the rules (Boezi, 2017). By saying this, the councillor referred to planning conformity rules and positioned them above Muslims' right to have a space. Once the prayer room had been closed, the municipality, together with the police department, held a meeting with the community to find an alternative location. Apart from the rather delusive outcomes, what is striking is that moving the group to

[6] These were probably also fuelled by the fear accompanying the finding that two potential terrorists where occasionally using the space.
[7] Retrived from: https://www.youtube.com/watch?v=wJFaMMNihlA
[8] Retrieved from: https://www.youtube.com/watch?v=MPK083Bt7D8
[9] Retrieved from: https://www.youtube.com/watch?v=mBTqtUM39oQ
[10] Ibid.

an alternative, more peripheral location seemed the only possible option to these participants. In these cases, as in many others, the discussion of how to manage eventual public externalities was subordinate to the previous, and unavoidable, discourse on use conformity – even when it came at the cost of depriving hundreds of people of a prayer facility. Here religion is seen as decontextualized in a double way: first, either its external effects are admissible or not, and, second, when determining a location for a new facility. the parameters of religion that are considered as acceptable never become the object of discussion Neither the religious group nor the context are understood as being capable of change. Thus, not only religion is thought to be an essentialized (either it can be there or not) thing (either it is religious or not), but it is also seen as being static and alien in this context. The fact that the gathering of hundreds of people may have certain requirements and change the neighbourhood never became an active part of the discussion; existing equilibriums were understood as immobile. In effect, a planner working in Venice stated the administration priority is not necessarily to find a space to satisfy a recent and emerging demand, but rather the priority is to ensure that transformations triggered by these new demands do not impact negatively on already existing equilibriums (planner, Venice, 2019). In this view the two needs (answering new spatial demands and limiting negative impacts on established situations) are not pictured as two faces of the same coin, but are instead framed as antagonist.

To summarize what this three cases tell us is that the inclusion of religion in planning categories does not nullify the possibility of making reference to external effects, but these become subordinate to a more fundamental consideration, that of use conformity. In such a way, what is interpreted as being a mosque in a former warehouse, or in a former church or in a shop window will be always deemed "out of place" or guilty of breaking planning provisions, independent of its impact; this closes the possibility for mediation. Fully embracing this logic, those who wish to displace Muslims often enact a strategy of exclusion through conformity and leverage this to delegitimize the group itself. In consideration of the fact that "legality=civilization", if religious presence in a certain place is seen to be "born out of illegality", then religion in that place becomes uncivil by definition and should then be removed regardless of the situation's specificity. The pervasive application of this logic that sees religion to be a distinguished legal and planning category comes with the risk that this approach might "amplify deepen, naturalize, entrench, or further polarize already existing (…) tensions." (Schonthal et al., 2016).

## *8. Planning with external, concrete and negotiable categories beyond the ideology of use conformity.*

So far, this paper shows, first, how spatial regulation, literally, draws borders around religion, requiring conformity to these borders, despite the absolute vagueness

of the object, hence without a proper definition of religion. Second, drawing from a pool of over thirty cases, the paper shows how requirements of use conformity play a fundamental role in reducing Muslim groups' opportunities to access (legal) space. In fact, while in theory the religious label would supposedly allow Muslims to access some benefits (such as the possibility of using public areas), in practice such benefits are generally unavailable, and being cast in religious terms ends up being more of a limit than an asset. Third, the paper shows how the relegation of Muslim groups to marginal locations is not only due to specific action of administration's misconduct, on the contrary it rests on three structural troubling assumptions on religion and the way it should locate. These assumptions are hindered in the "ideology of use conformity" and get enshrined in space through the application of that very same ideology. They can be synthetized in the understanding of religion as a decontextualized, essentialized thing for which the location ought to be understood through three binary questions: either it is religious or not, either it can be there or not (independent of externalities) and either its externalities are acceptable or not (without considering adaptation strategies).
Since the application of such logic, based on limited set of pre-constituted categories, does not come without strings attached, but with the risk of falling into discriminatory practices that are not only justified through the excuse of conformity, but are instead grounded in it, then this section attempts to reverse these binaries to propose a new direction for spatial regulation.

a) *From "either it is religious or not?" to "is it publicly relevant?", religion is not a thing.*

The first shift requires a move from an approach asking whether something is or is not religious, to one asking if a given activity is publicly relevant. This movement implies abandoning the possibility of ordering reality and drawing spatial borders through a limited set of generic categories (Blomley, 2003). If there is no identifiable object called religion then, by consequence, there will be no clear limit to what can or cannot be understood as a place of worship. In such an understanding, a space used by Muslims is not religious or cultural by definition, but it can be both without contradiction and it is not a priori expected to be different from any other space. In this sense, for what concerns spatial regulation, religion should not be special (Schwartzman, 2012), and therefore we should stop planning for it. This – of course – does not mean that Muslims should not find a place, but that their possibility to find one is to be unbounded from use requirements and evaluations over whether their identity is understood as prominently religious or otherwise. Similarly, the presence of carpets, lavatories or other architectonic features should not constitute a determinate element in the attribution of one or another etiquette (Sullivan, 2005). In practical terms, this proposal needs two further clarifications: the first concerns decisions on who is entitled to access eventual advantages (i.e access to fiscal benefits, public funds or public areas) that have up to now been reserved for groups identified

as religious. On this I will be following Nye when he calls for the necessity of moving away from a debate where the attention is centred on whether a group is religious or not by instead privileging a debate focused on the extent to which the practices of a certain group can be considered of enough collective relevance (Nye, 2001), assuming that groups that identify as religious satisfy a social function "unless such practice can be shown to be otherwise" (Nye, 2001, p. 6). This means that groups that identify as religious should be able to ask for benefits on a par with other social, cultural and artistic associations and their demands should be openly evaluated on the grounds of a series of contextual and transparent criteria.

A separate discourse shall be done for the cases (as the totality of those detected in Veneto and the wide majority across Italy) which do not ask for public funds or benefits, but only for the possibility of legally using a space. In such widely majoritarian situations, no further restriction should be imposed if not those of respecting safety requirements (as crowding limits, fire codes, etc...) and not disturbing the surroundings (this include factors as noise, parking, eventual polluting emissions. For a more in depth discussion on how to approach the issue of external effects see letter '*c*' in this section) . The question over whether a given activity can be located somewhere then changes to a question of why should it not be located there.

*b) From "can it be there or not?" to "why should it not be there?", religion is not an essentialized thing.*

The second shift requires us to stop asking if some activity can take place somewhere to ask instead if there are reasons for it not to do so. The possibility of determining if a given activity is allowed to locate in a certain place on the sole ground of its "essence" and independently of the externalities it generates is rejected and substituted by giving priority to its impact on public space.

In some ways, this is a renunciation of the planning aim "of achieving a desired overall state of affairs" (Moroni, 2010, p. 138) where the desired horizon was constituted by an assemblage of ordered activities. It implies prioritizing out from a discourse of relation over one of identity.

In other words, this shift asks to take more seriously all those elements that are generally cast as excuses (Cesari, 2005) used for justifying uncomfortable and eventually unspeakable Islamophobic feelings. While it is surely true that in many cases they have been mobilized with discriminatory intent, it does not make them unacceptable instances *per se* (Miller, 2014). While the motifs behind them are unacceptable qua racist, claims over noise or traffic are one of the possible positions in a conflict over uses of space, a position that once disentangled from limits over the nature of the activity can be verified, changed or dismissed and that can be answered by appealing to a whole set of planning and design solutions.

For example, the problem of increasing traffic can be addressed by asking the group to gather using privately managed collective transport (some already use mini-busses), envisioning new public transport serving the area or asking the group to

compensate neighbours for the burden created during specific days. A simple problem of traffic would hardly lead to permeant closure if not supported by other more absolute claims, such as those of use unconformity. The same point can be made about noise. With this proposal, I don't mean to say that with a greater focus on such elements the problem of racism would suddenly vanish; however, this is a road which avoids delegitimizing the group's possibility of being accommodated in cities. It avoids them being labelled as having been "born out of illegality" and maybe opens the chance for them to find a location without the need to justify their activities, beliefs or religious or cultural "nature".

c) *From "either its external effects are acceptable or not" to "which are acceptable external effects?". Religion is not an essentialized thing out of context.*

The third, and maybe more complex, point requires questioning the parameters and threshold used to determine acceptable external effects. Avoiding to naturalize parameters underpinning majoritarian conceptions of harm (Cooper, 2004) and abandoning the assumption that externalities can be judged accordingly to objective criteria based on some universal rationality, or some generalist appeal to common sense or public interest (Campbell & Marshall, 2002), is of primary importance.

In other words, we should not make the mistake of considering current equilibriums as the only possible, acceptable, just or even efficient ones (Chung, 1994).

To be clear: the amount of noise felt as a disturbance at given times can obviously vary according to both group requirements or individual sensibilities; controversies and even harsh disagreements could center on the admissible level of noise. They should be handled without assuming the necessity and validity of universal solutions; rather, they should be considered from the standpoints of the different groups. In this sense, acceptable parameters must be negotiated. What is different about planning for noise (or traffic, or pollution) in place of planning for use, is that while specific groups or communities can make different claims reflecting specific needs, the amount of noise tolerated is not bound to a single and allegedly immobile identity or practice. Instead, this strategy opens further possibilities for alliances and recognition. Paradoxically, workers at the fish market, night club owners, and Muslim groups might all be interested, for very different reasons, in finding a solution that allows for loud volume events to take place at five in the morning. Since linking externality parameters to functions seems neglecting necessities characterizing a rapidly changing urban context in this proposal I maintain that the regulation of externalities should be prioritized over a logic based on rigid categories of uses and this should be the case also (and more importantly) when it comes to locating something as vague as religion.

The question to be asked is, then, which are the acceptable external effects and how to acquire a rule that it would be good to have (Griffith, 2003)? To reply to this

question, I propose an approach based on an idea of reciprocal disadvantage as expressed in a passage by Coase (1960). Here, Coase stresses how the harm of activity A on B should be understood as being of a "reciprocal nature" (1960, p. 96). In this logic, if it is true that the presence of, say, a prayer room (activity A), negatively impacts residences (activity B), then it is also simultaneously true that maintaining the residential vocation unaltered (B) negatively impacts the possibility of the prayer room to be in that location (A).

In this sense, parameters for acceptable externalities should be negotiated for while taking into account the reciprocal disadvantage, and this negotiation would become the new terrain on which conflict legitimately unfolds.

## *9. Addressing some critiques*

Recapping what has been said so far, the focus on external, concrete and negotiable elements as opposed to the current focus on abstract, essentialized categories that are crystalized in an ideology of use conformity could come with some advantages. First, it revokes the right to oppose someone's presence in a space on the sole grounds of moral or cultural annoyance (Waldron, 2000) generated by the (alleged) religious nature of his or her behavior. This should not be a matter of others' concern and surely not a legal or planning concern. Second, it would at least partially free groups from the discretion of public authorities, amplifying the range of possibilities at their disposal. Third, it would expose how anything, even noise perception, can be subject to different sensibilities and positions which should be considered central to planning activity. In this sense, far from hiding discriminatory intentions under the cover of allegedly neutral elements, the intent is to expose how those elements are not neutral but active grounds of contestation among equally legit groups.

The approach proposed here is somehow at odds with a large number of the works that address issues of pluralism and multiculturalism in planning. While agreeing that land use regulation is problematically informed by assumptions of universality (Qadeer 1997, 2016; Thomas 2000; Lo Piccolo, 2000), not only for the standard it sets but, even more, for the categories it uses, nevertheless the present work does not call for administrations to "intervene [in] treating the different groups differently" (Burayidi, 2000) through a policy of affirmative action[11] based on a flexible approach (Dwyer et al., 2016; McClymont, 2015; Murtagh & Ellis, 2010). Here the call is for administrations to step back and, on one side, renounce exercising their power over space through requirements of use conformity, while, on the other, asking them to uphold their public roles (Holcombe, 2013) and be more concerned with the relations (Chiodelli & Moroni, 2017) among equally legitimate spaces and groups. Some may

[11] Also named as positive discrimination in the European context.

say that focusing on apparently minor elements, generally used as excuses, such as traffic or noise, equates to avoiding the elephant in the room of racism, masking it under apparently neutral elements and allowing it to act as an underground force (Massey & Denton, 1993), thus remedying only the "most blatant forms of discrimination" (Delgado & Stefanic, 2001, p. 7)

However, exactly because discrimination hides behind those minor elements, letting different groups have a voice in how they wish to have those "excuses" managed, literally means allowing the formation of a new political ground. Favouring a more relational-oriented spatial regulation does not mean that the elephant in the room is avoided or hidden; rather, it is moved, in the hope that a change in the object of planning and thus its language, practices, responsibilities and possible alliances would also enable groups that are currently blatantly excluded through, and because, of planning to find their space in cities, and by extension, in the public arena. In essence, the critique considered here would be accepted and regarded as correct if, in the proposal advanced by this paper, elements that are currently understood as external, concrete and negotiable were understood as given and neutral, thus neglecting their dependence over social, cultural, economic or religious biases. This is however not the case: in the perspective proposed by this work external, concrete and negotiable elements are neither given nor neutral, but are open to contestation.

The second reply is more concerned with issues of feasibility and is thus quite specific to the Italian context or other similar ones. As briefly mentioned, when retracing the normative context, in Italy administrations are already required to actively create the conditions for religious groups to settle. Not only is this not happening, but administrations often use their power in the diametrically opposite fashion (as already pointed also in the previous chapter) A political shift to have administrations uphold their duties seems very unlikely, as does the creation of a public structure able to track and systematically condemn local administrations if and when they do not fulfil their "positive duties".

In this context, an exclusive focus on affirmative action without a more general revision of the way that spatial regulation is pursued would constitute more of a patch to remedy systematic deficiencies than a generally viable alternative, and would probably be confined to cases in which blatant exclusion has already been exposed, for instance, through judiciary action or in the view of particularly far-sighted administrations. Additionally, even for those cases in which affirmative action would be set in place, it should be considered how it might require the support of a relevant bureaucracy (Jewson & Mason, 1986; Schonthal et al., 2016) aimed at defining the kinds of groups who can legitimately access those benefits. This inevitably implies that state agencies should exercise some coercion through an evaluation of merit on who can access what, not simply on the ground of their public impact/contribution, but in the way they are identified. Such bureaucracy would be additional, and not alternative, to the one that already exists. It would risk being similarly discretional and would then risk increasing those "layers of exclusion" impacting the more

vulnerable, weak or unrecognized groups who are not able to organize, lobby or successfully file a request.

## *Conclusions*

While planning is asked to accommodate religion in the city and tends to do so mainly through requirements of use conformity, what we mean by religion is not clear. It is often considered to be a self-evident category that can be associated with a set of objects and spaces in absence of any further explanation. Relying on critical legal geography and critical secular scholarship, this work investigates the situation of Muslims in Veneto and aims to show, first, the disproportionate relevance that the ideology of use conformity retains and, second, to uncover three troubling assumptions about religion underpinning and maintained by that perspective. After outlining this critique, the paper proposes an alternative way to approach spatial regulation and thus calls for a shift toward relationally oriented planning, which would focus on external, concrete and negotiable elements as unbounded from evaluation over use conformity.

Returning again to Nye, I do not mean to say that this is somehow easy nor that it will be a resolution to all controversies; many issues will in fact remain open: what is of public relevance? What levels of noise are acceptable and where? How would it be possible to solve potential crowding problems?

What this work suggests is that in making such a shift, we would avoid systematically and uncritically applying generic, potentially discriminatory categories to space and blindly assuming their validity. In the language of critical legal geographers, we would stop legally constituting and reconstituting the home or the place of worship, though we would focus on the relations amongst them.

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INTERMEZZO

# What law for what space: changing point of perspective

In previous Chapter 2 I have been introducing to the literature of critical legal geography. As anticipated, this stream of research it is made of heterogeneous works which all share a commitment to explore the reciprocal configuration of law and space. On this line the next chapter looks at this relation among the legal and the spatial with increasing interest and thus asks when can some law be considered (spatially) effective and when does it become a constitutive of space. These questions are first approached from a rather theoretical angle and only by the end of the paper it is shown how the discussion can be of relevance for the analysis of the accommodation of religious diversity. To some extent this structure may disorient the reader who could, at first, find difficult to draw an immediate connection among the following part of the thesis and the previous two. To avoid such bewilderment it is however sufficient to think of the theoretical sections as an unavoidable and detailed parenthesis functional to provide the analytical tools which allow a different, not alternative but complementary, reading of the very same processes of location presented in chapters 1 and 2. In other words: if the first two papers were concerned with exploring the role of planning and law in, respectively, supporting administrations strategies and in drawing the borders of religion, then the following paper is concerned with a key transversal question: what does it mean to speak of the relevance, or of the impact of planning or of law? How are rules exactly becoming spatially effective?

Since Chapter 3 changes perspective and in doing so it provides some interpretative tools for analysis it can then come natural to question: why was not this chapter opening the thesis instead of closing it? In effect I did consider this option myself. Nevertheless the choice was to keep this as the last article in the sequence so to provide an additional way to look at a topic that, by this time of the reading, should already be familiar. By swapping the parts, and placing the article first, the theoretical approach presented would easily turn to be the main point of attention and the primary key through which all the material presented would be likely to be interpreted. My intention instead was to progressively add layers and complexity rather than provide a single and rather predominant view.

As illustrated in the introduction (Fig. 1) this work thesis is structured on two interlaced but distinguished lines. The former is thematical, and it regards the way planning deals with diversity, and second is instead made by literature which time to time opens to new suggestions and stimulates further reflections. The following (and closing) article thus takes and develops one among these suggestions and uses it to relate with, and to further explore, the main thematic interest of this work.

# CHAPTER 3

# The (sur)real space of the law: the impact of norms beyond mere compliance.

This chapter has been co-authored with Prof. Francesco Chiodelli (UniTo) and a version of this article has been sent to the journal *Transactions of the Institute of British Geographers* and it is currently under review.

Aknowedgments: "The paper is the product of the conjoined work of the two authors which have been closely working on its different parts. In practical terms the two contributors should both be considered 'first author '."

## *Abstract*

*This paper looks at the law-space nexus by exploring the nuanced ways in which a norm can influence a sociospatial context. Against the inadequacy of the mainstream, and narrow, approach which reduces law's impact to its literal accomplishment (or its coercive application), casting any other eventuality as occurring out-of-the-law, the paper proposes to look at norms effectiveness in a more encompassing and detailed manner. To do so, this work rests on the concept of nomotropism (namely, acting-in-light-of-the-rule) and embraces an understanding of norms effectiveness as operativity. It means that any norm that has a causal relation with an action can be deemed effective, and that the impact of a norm is not confined to mere compliance. The analytical framework derived by these theoretical insights is articulated with reference to different kinds of norms (law-in-actu and law-in-intellectu; law-in-books and law-in-action) and it is applied to improve the analysis of complex urban sociospatial phenomena such as the conflictual process for the accommodation of Muslim's claim for religious space in an Italian city. Results of this application show how it is neither through conformance nor through transgression that rules becomes a constitutive of space. Instead this "worlding" process mostly occurs through actions that, even if informed by rules, cannot be interpreted as their mere obedience.*

***Key words:*** *norms, laws, space, effectiveness, operativity.*

*"An object never does the same job as its name or image"*

(Magritte, 1929, p.33)

## 1. Introduction: representations, norms and objects

In 1929 Magritte, an important exponent of the surrealist movement, authored a piece in which, through playful figures, he explores the relation among words, images and objects. One among the core insight of this publication is that no representation can entirely correspond to the object (Bowman, 1985), no matter how accurate, or if spelled out in word or through images.


*Fig. 1 – "No object is so tied to its name that we cannot find another one that suits it better". (Magritte, 1929, p. 32)*

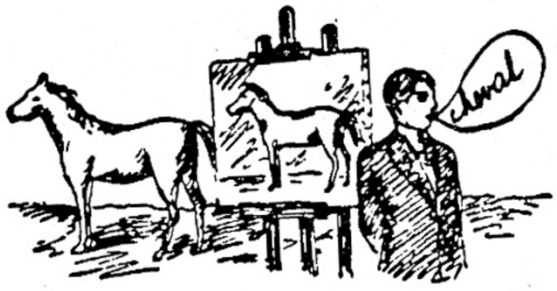


*Fig. 2 – "An object never does the same job as its name or image" (p. 33)*

Without the need of going through the vast theory regarding the relation among representation and reality, suffice here to say how analogous types of reflections interested several fields, so as today, for instance, despite their increasing accuracy, sophisticated technologies and availability of data, neither cartography (Crampton & Krygier, 2010), nor documentary photography (Newton, 1988; Taylor, 2000) and not even statistic (Desrosieres, 2001; Espeland and Stevens, 2009) can credibly claim to perfectly and neutrally describe the real world. Such type of considerations regarding the intricate relation among an assertion and its factual correspondence seem, instead, to remain marginal when considering normative practices. On one side, in fact, the

"mirror thesis"[1] – that is the idea that law reflects society (Tamanaha, 2001) – remains strong in legal circles, and transverses numerous different legal theories (Ewald, 1995). On the other side, norms[2], qua tools for social order (Tamanaha, 2001), are typically expected to find an exact correspondence in practices and are therefore understood as being effective only to the extent to which they are complied.

Since the 1960s a number of authors have increasingly challenged this understanding, calling for the growing need of empirical research at the interface of law and society (Friedman, 1975; White, 1986). Scholars have thus significatively underlined both how a perfect correspondence among "law in books" (Pound, 1910) and what actually occurs on the ground only constitutes a mirage, and how the influence of law should not be understood as limited to compliance, but as considerably more far reaching (Friedman, 2016), to the extent of becoming a constitutive (Sarat and Kearns, 1995) of social life. Nevertheless, despite these intuitions, a systematic theoretical and empirical analysis of the social working of rules (Griffith, 2003) is lacking, and needs to be more carefully performed, especially with reference to the spatial dimension (Van Dijk and Beunen, 2009). In effect, apart from an expanding but still limited group of authors (see for instance Blomley, 2003; Delaney, 2015; Philippopoulos- Mihalopoulos, 2011), research in urban studies and geography remained quite inattentive to the intimate complexity of the nexus between law and space, and tends to approach them discreetly, underestimating their co-constitution (Delaney, 2015).

It is by exploring the spatial operativity of law beyond compliance, and by proposing some theoretical tools for its analysis that this paper aims to contribute filling this gap. More specifically, the work is organized around three main interlaced questions: in what relation are behaviours with respect to rules? When can a rule be said to be effective (or having an impact)? And finally, to what kinds of norms are we referring to when speaking of norms' effectiveness? In the attempt to reply to such questions the present paper proposes to look at the working of norms as operativity, and – resting on the concept of nomotropism (namely acting-in-light-of-the-rule)– presents an analytical and logical framework to be applied to the analysis of complex socio-spatial phenomena. The work is structured in five sections. After this introduction, section two presents the framework of reference (mostly related to critical legal geography) and identifies two alternative paradigms on rule effectiveness. Section three discusses how concerns over the relation among law, behaviour and space have been entering (although largely implicitly) in urban studies,

[1] The "mirror thesis" indicates a "class of theories" (Ewald, 1995; p. 492) holding how law necessarily reflect one or more non-legal categories (geography, dominant class values, religion etc…). The question then becomes "To what extent can law be explained in terms of non-legal factors?" (1995; p.493). Depending on the answer then strong or light versions of the mirror thesis are recognized. Strong versions argue how (all) laws can be almost completely explained in terms of the category X; lighter versions more cautiously suggest how law is somehow influenced by X.

[2] In this paper the term "norms", "rules" and "laws" are used interchangeably.

in particular inspiring discussions over plan's making (§3.1) and the nature of unauthorized settlements (§3.2). Section four elaborates on the concept of nomotropic action (§4.1), highlighting its implications for the understanding of normative effectiveness (§4.2) and its applicability in relation to different types of norms (§4.3). On this ground section five shows the applicability of this theoretical tools to the analysis of real urban phenomena through the realistic case-study of the process of accommodating the religious needs of Muslims migrants in Italian cities. After this follow some concluding remarks.

## *2. Questioning the spatial operativity of norms through alternative paradigms of effectiveness.*

While both the spatial embeddedness of action (Soja, 1989; Massey, 1993) and rule's relevance to society (Friedman,1975) are consolidated principles shared across a vast literature, yet law and space have been frequently understood as poorly related. This to the extent that their association was until relatively recently perceived as odd and unworthy of any specific inquiry (Blomley, 2003). Since the 1990s (Blomley, 1989; Blomley and Clark, 1990; Clark, 1989), building on the increasing popularity of scholarship at the interface of law and society (White, 1986; Braverman et al., 2014), things have rapidly changed (Delaney, 2015) and several authors grouped under the stream of critical legal geography (Blomley & Bakan, 1992; Braverman, 2013; Bennett, 2016; Cresswell, 1996; Martin et al., 2010; Valverde, 2009) have challenged their respective disciplinary boundaries, thus showing a dense net connecting the legal and the spatial. From being initially conceived as analytically separate domains law and space have now been shown as "reciprocally or mutually constituted" (Delaney, 2015; p. 98). Not only our understanding of the home, the environment or territory is inherently legal, in the sense that each of these spaces are what they are also because of the way they are named, categorized and ruled by laws (Braverman, 2016), but also, with norms being differently mobilized across geographies (Azuela & Meneses-Reyes, 2007) our understanding of the law is deeply spatial (Pue, 1990). By being used, law is inevitably "worlded" (Braverman et al., 2014). It – literally – takes place. Although this can appear as a rather intuitive concept, what remains unclear is how does this process of location of law occur. More precisely, while empirical research has in different occasions (Bennett, 2016; Braverman, 2013; Blomley, 2017) shown how any sort of space is "packed" of legal references (Sarat & Kearns, 1995), what remains doubtful is, among other questions, when a norm can be said to be spatially operative, to be used and thus to be ultimately located. Put another way, the question is when, why and under what conditions a certain norm produces effects – and, more precisely, it influences space (its conformation, its use, its perception).

At this regard two main alternative approaches can be recognized.[3] The first approach goes under the name of instrumentalist (Garth & Sarat, 1998) or deterministic (Benda- Beckmann, 1989). It favours a top-down view where law is perceived as "external to the social practices it regulates" (Sarat & Kearns, 1995; p. 27), to a great extent the working of rules is here equated with their efficacy.

Under such approach a rule is expected to directly determine some consequence (Benda- Beckmann, 1989) and is thus considered as producing an effect only when some action is undertaken in order to comply with its prescriptions (or when sanctions are applied for its violation). Under the instrumentalist approach the "working" of norms is thus greatly interpreted as limited to their passive and literal accomplishment (or to their coercive application). This paradigm rests on a narrow and semantic understanding of rule's effectiveness and recognizes its occurrence only to the degree to which rules are "actually applied and obeyed" (Kelsen, 2006 [1949], p. 40).

The second approach goes under the name of constitutive (Garth & Sarat, 1998), here the working of law is conceptualized as simultaneously being more ambiguous and more pervasive, and it is understood mostly as norms capability of create meanings. The main focus is not on whether law is complied or transgressed, but on its ability to shape attitudes and beliefs, ultimately becoming integral part of the everyday experience; "so conceived, law is inseparable from the interests, goals and understandings that comprise social life" (Sarat & Kearns, 1995, p. 30)

In this second approach the working of norms is not intended as limited to immediate and passive fulfilment of some directive or requirement (Blomley & Clark, 1990), but it embraces a more encompassing and creative "experience" made of the different and unexpected (even unconscious) ways people embed the law in their daily activities, by interpreting, stretching, negotiating, overturning, adjusting and internalizing it. In synthesis, and as suggested by the name, this approach rejects an idea of society as a "homogenous plain peopled by an abstract homo jurdicus", instead it sees it as a "multifeatured normative landscape" (Blomley & Clark, 1990, p. 441).

Following on these two alternative "paradigms of effectiveness", this work proposes to look at the working of norms as operativity. This means – on the one hand – maintaining a strong emphasis on the cause-effect rationale (as suggested from the instrumentalist approach) while –on the other– stretching this logic beyond the limits implied in the categories of compliance or non-compliance, systematically scrutinizing the eclectic ways in which law enters, and exercises its influence, in

[3] A third vision, of which Ross (1958) is the main proposer, conflates norms validity with their efficacy (Burazin, 2017). Since in Ross vision's norms are "directives mainly addressed to legal authorities" (Navarro & Moreso,1997, p.218) then they can be deemed as being effective as soon as they are considered legit within the juridical system of reference, at the condition of working to ground jurisprudence. To the intents of this paper this understanding of effectiveness is excessively oriented inwards and misses to explore the relation among norms and society, for this reason it will not be considered in more depth.

temporary and situated realities (as suggested by the constitutive). In this perspective the working of rules is not anymore to be solely interpreted as being an attribute of the norm, but primarily as one of the behaviour (Di Lucia, 2002); norms are creatively inhabited (Mahmood, 2005) by constantly adjusting actions so to account for their existence (Mnookin & Kornhauser, 1979). The emphasis is on how law is actively up-taken by society, variously transformed, and finally embedded into tangible outcomes. As significatively argued by Friedman, if looking at norms is sometimes sufficient to speak of compliance, yet we should also be ready to account for how not every action can "be put into these pigeonholes so easily" (2016, p. 73).

## *3. Hints from urbans studies*

As anticipated, the relation among society and the law has largely remained either untouched or implicit within urban studies. It is, however, still possible to recognize at least two, somehow complementary, ambits in which the creative tension (Garth & Sarat, 1998) among different paradigms of effectiveness (together with the analytical limits of the binomial compliance-transgression) has been sensed and detains some influence. The former concerns plans making, the second regards the position of informal practices within the frames given by norms.

### *3.1 Norms operativity in statutory and strategic planning*

Whether most agree on the fact that spatial planning is about guiding location (Albrechts, 2004; Heleay, 1997) there is not such a convergence on the preferable way to do so. The two main "schools" prevailing (and largely coexisting) across Europe both involve the recourse to "plans". In the former view, the plan is a normative detailed land use plan, while in the second it is a strategic document (for an alternative view, see Ellickson 1973). Although, they both contemplate the design of final state of affairs (Moroni, 2012) they differ, among other things (Albrechts, 2004), in the way they assign rights over space and in the expected impacts and normative power associated to these imaginative scenarios. Traditional statutory plans assign development rights "in advance along with the design of the collective strategy" (Rivolin, 2008; p.169) and consist of a number of normatively binding documents among which land use maps, jointly with technical norms, are often attributed a prominent role. Statutory plans are generally expected to be conformed and thus to be resembled by physical outcomes. In such object-oriented (Talen, 1997), conformance-based understanding (Talen, 1997; Loh, 2019) a plan is regarded as being effective when final results match those portrayed by land use maps or, at least, relevantly approximate it; if discrepancies among the plan and reality are consistent, then the plan has not being working (Feitelson et al., 2016).

Although, especially at the local level, statutory plans continue being extensively used, their limited ability "to control the future" (Pressman and Wildavsky, 1973) and to respond to conditions of increasing complexity (Albrechts and Balducci, 2013) favoured increasing interest for strategic planning.

Strategic plans are thought not as prescriptive documents to be conformed to, but rather as open frameworks of reference suggesting a direction for actions (Albrechts and Balducci, 2013). They generally do not have direct conformative power and are not expected to find exact correspondence space, but are instead expected to guide changes; permeating space. On the one hand this means that development rights do not derive by conformance with a prescriptive plan but they "may be assigned after the evaluation of projects, once they have been assessed to be in line with the collective strategy" (Rivolin, 2008; p.169). On the other hand it means that strategic plans are not understood as being "working" only when, and if, actions comply with their content but, accordingly to a "performance-oriented" understanding (Faludi, 1989), each time some decision is taken somehow accounting for them. This means that actions (and thus resulting spatial effects) causally related to the plan do not necessarily contribute to the fulfilment of some expected future, but may also move toward different, if not opposite (Moroni, 2012), directions.

Here the problem changes from searching for the higher possible level of spatial compliance to "exploring how the various principles and norms were taken up and used in the multiple interactions that took place in the ongoing flow of project development and implementation." (Healey, 2003).

If on the one hand the tension among these understandings of planning seems to incarnate the alternative perspectives outlined in the previous part, on the other hand, such impression is, at least partially, misleading. In fact, in order to be considered as dynamic frames of reference, strategic plans generally lose all, or part of, their normative power. In this sense their effectiveness is understood as being beyond compliance, not necessarily because adopting some "deeper" understanding of what is ought to be considered as normative operativity, but because experiencing the limitations characterizing statutory plans led to explore non-conformative, but instead, performative approaches to planning. In other words, the limits hindered in an understanding of effectiveness as limited to compliance have been sensed, however instead of being directly confronted, they have been bypassed, leaving them largely untouched. This unawareness is particularly visible in those systems generally characterizing southern European countries and Italy in particular, where disregarding the existence, validity or quality of a strategic plan, yet at the local level it remains strong the idea that preventive binding zoning is necessary to guarantee the public interest (Rivolin, 2017),

### *3.2 Norms operativity in unauthorized settlements*

Specularly, a similar impasse also qualifies the debate on what is broadly identified as the urban "informal". Despite the increasing attention that literature has granted to

the theme (Boanada-Fuchs and Boanada-Fuchs, 2018) a shared understanding of the concept it is still missing (Guha-Khasnobis, Kanbur and Ostrom, 2006). Given the normative focus of this paper we specifically refer to those spatial practices occurring in violation of the letter of the law, including statutory plans. For greater clarity and to underscore the legal focus we thus prefer the term "unauthorized" (Chiodelli and Moroni, 2014).

Under an "ordinary"– dualist – perspective, issues concerning the relation among action and the rule are understood as being only questions of either compliance or transgression. Unauthorized activities are here interpreted as being positioned both "outside the law and state intervention" (Razzaz, 1994, p. 7), they represent the norm's negation (McFarlane and Waibel, 2012) and – if unsanctioned – constitute an example of how rules have failed, becoming ineffective by being substantially discarded. Under this view norms stops operating in the moment they are not complied.

This vision has been repeatedly challenged by authors calling for the necessity of an enhanced understanding of the relations linking (il)legality, (non)compliance and (dis)obedience (Raz, 1970; Cooper, 1996; Chiodelli and Moroni, 2014). The call is not only for the need to move away from a dichotomous approach but also to rethink "the implicit idea of formality as the norm and informality as deviation" (McFarlane and Waibel, 2012, p. 2). Accordingly to this second approach, unauthorized activities (and spatial outcomes deriving from them) are seen not as alien to the law but dependent from it as much as formal one. They result directly from normative activity so that, for instance, the "urban informal" is not a "sector" rejecting the law but rather a "mode" (Roy, 2005, p. 148) of relating with it. Far from being a monolithic block unauthorized settlements are re-read as *modus operandi*, a way of accounting for law in which shades of compliance and non-compliance coexist. Digression from the norm is not necessarily to be interpreted as an act of deliberate refusal (Arimah and Adeagbo, 2000), but instead as a way of approaching rules so to embody them, making them "locally meaningful" (Cooper, 1995). "Not compliance may thus not be deviance, but reasoned decision making" (Donovan & Blake, 1992; p. 508), not necessarily standing in opposition to the socio-legal system (Bayat, 2000) but even seeking "acceptance by, and entry into, it through illegal means'' (van Gelder, 2013, p. 511). Reversely, those opposing current state of things may operate through quasi-legal, "A-legal" tactics (Lindahl, 2003; Hughes, 2019).

In sum, the shift from a discrete dichotomic approach – only contemplating compliance or transgression – to a continuous one, in which a spectrum of compliance and non-compliance is contemplated (Boanada-Fuchs and Boanada-Fuchs, 2018), developed together with an increasing interest "in observing the connections rather than the "gap"" (Razzaz, 1994, p. 9) between unauthorized activities and the law. What remains under-explored and under-systematized, needing to be more closely considered, are the nuances, possible implications and logical relations characterizing these connections. It is to fill this gap that the next section intends providing some tools for their analysis and proposes the utility for the fields of geography and urban studies of few concepts developed by some Italian legal philosophers (Di Lucia, 2002,

2014; Fittipaldi, 2002, 2013; Passerini, 2012) building on the theory of nomotropism, initially advanced by Conte (2000).

## *4. Beyond mere compliance*

### *4.1 Introducing to the idea of nomotropism*

The expression "nomotropism" refers to acts taken in-light-of-the-rule (Conte, 2003, p. 294) and thus can be used with reference to all those situations in which a relation of derivation of actions from norms can be recognized. It is a neologism composed by the Greek words 'nómos' [νÒμος], which stands for 'norm', and 'tropos' [τρόπος], indicating a turn. The term has been introduced in the scholarly debate at the beginning of the 1990s by Amedeo Conte (Conte, 1993), an Italian philosopher of law who, in some of his later writings (Conte 2000, 2003), further developed the concept.[4]

In order to clarify the notion of of nomotropic action, Amedeo Conte offers several examples. This is, for instance, the case of the cardsharp: "it is on the ground of rules (the [...] constitutive game's rules) to which he does not conform that the cardsharp is acting. Paradoxically the cardsharp applies those same rules to which he misses to conform its action" (Conte, 2000, p. 23). The cardsharp, in fact, acknowledges and credits the game's rules (for instance, the rules concerning the card values as the relevance of the ace in the game of poker) and plans its scam exactly in light of them. If these rules would have been different, or if the cardsharp would not know them, then the cardsharp would have acted differently. It is worth noting that the cardsharp plans the scam not only in light of the specific game's rules (e.g. poker), but also in light of those, more general and implicit, forbidding to steal. Hence, he is acting nomotropically with respect to two different sets of laws. A second example proposed by Conte (2003, p. 296) is the one of the conscientious objectors: "In USA, during the Vietnam war, some objectors burnt the draft-card that had been sent to convene them. This behaviour was (i) neither in violation, (ii) nor in compliance of the norm obliging to serve in the military. Nevertheless it was exactly because of that norm that objectors were burning their draft-card."

Expressing what can be inferred from these examples through more general terms, Fittipaldi (2017) clarifies as an action can be said to be nomotropic in relation to a given norm if it changes depending, either on the norm's very existence, or on the agent awareness of the norm (2017, p. 60). In other words "every action on which a norm is acting causally" (2017, p. 60) can be defined as nomotropic. Against this backdrop, it is to be noted that the notion of nomotropism underlines a relation of causality connecting the action to the norm, but it does not contain any indication of the quality of such relation (for example, there is no mention if we are referring to

[4] The concept of acting-in-light-of-rules had been already introduced in Conte (1981).

situations of compliance or not). Otherwise expressed, the concept of nomotropism detects and systematizes the existence of a logical relation linking actions to norms in a value-neutral mode (Friedman, 2016), that is without classifying it – such as through the dichotomy compliance/non-compliance.

### *4.2 From nomotropic action to nomotropic effectiveness: The implication of the concept of nomotropism in terms of rules impact*

As pointed earlier, in general terms we can refer to two alternative approaches – the instrumentalist and the constitutive – where the former understands the "working" of norms as consistency, while the latter understands it as meaning-making and embeddedness. If, when applied to the analysis of complex socio-spatial phenomena, these paradigms risk respectively to seem either too reductive or too abstract, the concept of nomotropism can help articulating a transversal view in which the working of law is conceptualized as operativity. This approach transcends, without rejecting, the categories of mere compliance and mere non-compliance (Fig. 1) and opens to a non-binary, nuanced, conceptualization (Fig. 2) through which it is possible to better elucidate, in a theoretically appealing and analytically detailed manner, the complex process through which the law is "worlded". To better argument the potentials of this additional paradigm then the main implications of the concept of nomotropism for the study of rules are presented in what follows, they mostly concern the relation linking the categories of compliance/non-compliance to the notion of norm's effectiveness (also named "impact" in Friedman 2016[5]).

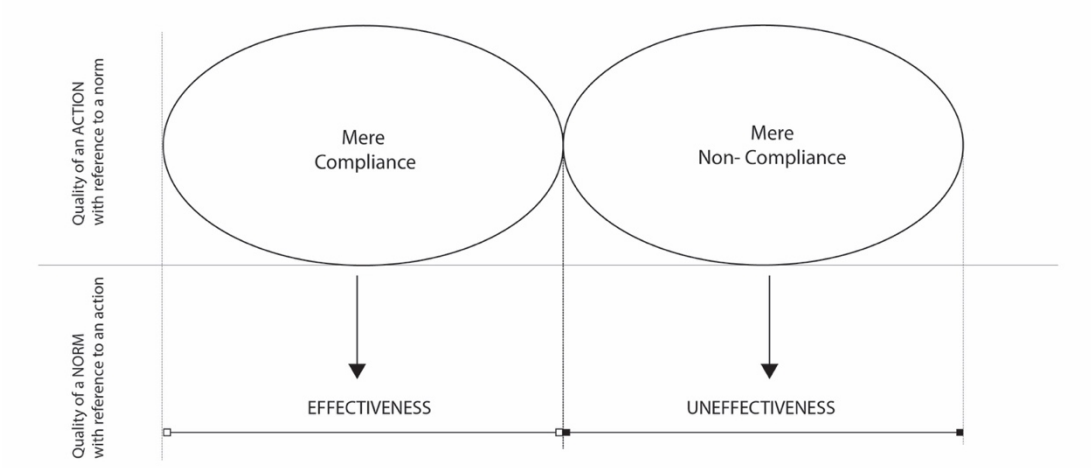


*Fig. 3 – Relation among compliance and effectiveness under a binary instrumentalist approac*

[5] In this text we use impact as a synonym of effectiveness.

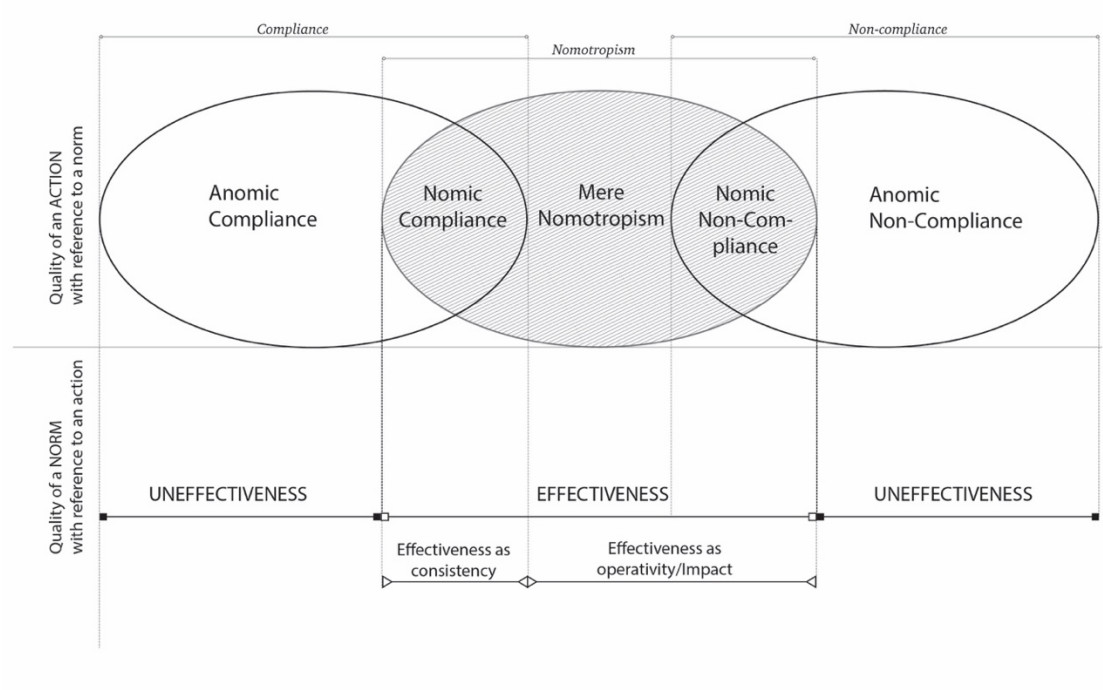


*Fig. 4 – Relation among compliance and effectiveness under a constitutive approach as articulated through the concept of nomotropism. Source: adapted from Fittipaldi (2017)*

As anticipated, according to the conceptual framework of nomotropism, effectiveness cannot be reduced to mere compliance (Di Lucia, 2002), even more, compliance turns being neither a necessary nor a sufficient condition for a norm to be considered effective.

Compliance is not a necessary condition for effectiveness in that, as emerging from the examples of the cardsharper and the conscientious objector, a rule can influence a behaviour also when it is not conformed at all. In effect, compliance is only one among the possible instances of impact (Friedman, 2016). Thus, the idea of effectivity as compliance (nomic compliance) emerges as being inevitably partial and, therefore, it needs to be integrated by considering at least two additional classes of relations. First, nomic non-compliance (or nomic difformity or nomotropic transgression), meaning acts that, although influenced by the existence of rules, occur in their violation. Second, mere nomotropism (Fittipaldi 2017), when an action, whilst shaped by the existence of some norm, does neither comply nor transgress it. In both of these eventualities the action is linked through a relation of causality to the norm, which can therefore be considered effective (or operative, or having an impact). For greater clarity we can exemplify these categories and their relationship with rules effectiveness' referring to the already known example of a card player. In case of

nomic compliance a player engaged in the game of poker would play by knowing the rules and carefully following them. Here the norm would be effective through compliance. The case of nomic non-compliance is instead exemplified by the cardsharp that, although relying on the game's rules, acts by transgressing them (i.e. he hides an ace up his sleeve). In this case the game's rules, while being violated, continue exercising some influence on the agent and can therefore be understood as being effective. In case of mere nomotropism an hypothetical player aware of poker rules would refuse sitting at the table because conscious that its inability to cheat will disadvantage the player in the game. Here the choice occurs neither in compliance nor in transgression of the rules. Indeed, it transcends both these categories, but, nevertheless, rules maintain a role in the decision and are therefore effective.

Simultaneously, under a nomotropic understanding of the relation among behaviour and norms not only compliance is not a necessary condition of effectiveness, but it is neither a sufficient one. This is exemplified by the case of anomic compliance (Conte 2002). Here an action can conform to what is prescribed by a norm also by chances or because of other reasons than the need (or will) to respect the norm in question. As a consequence, rules lack any direct relevance in determining the action itself (i.e. they are ineffective). Following on the previous example, a player could sit at the poker table even without a clear knowledge of the rules. Despite this, with the help of some luck, the player receives good cards and several aces so that he casually wins a round. In this case, even if he seemed acting in compliance with the game's rules, he was unaware of the rules used to rate the scores and won mainly because of luck. As a consequence, rules cannot be said to be effective, even if the action, from an external viewpoint, appears to comply with what is prescribed by poker's rules.

To summarize (see Fig. 2.), if the concept of effectiveness is read through the lens of nomotropism, compliance results as a subcategory of effectiveness of a norm, the latter embracing some other sub-categories. In the words of Friedman (1975, pp. 45-46, cit. in Fittipaldi 2017, p. 65): "The legal act is said to be 'effective' when behaviour moves in the desired direction, when the subject comply or obey. Many legal acts are not 'effective' in this way. People ignore them or violate the command. Deliberate disobedience may be part of a system which does, however, take legal act into account. For example, armed robbery is prohibited by law. One would not say that armed robbery is part of the 'impact' of rules that forbid it, unless the crime is somehow causally related to the norm. The norm, however, makes some difference in the way that robbers behave; they may, for example, wear masks, which they would not ordinarily do, except to avoid being caught and punished for breaking the law. Wearing the mask, is part of the impact of a concrete legal act. Impact, in other words, is more than the degree of obedience; it is the total effect of legal act on behaviour, positive or negative."

### *4.3. The impact of different types of norms*

The aforementioned reasoning on nomotropism provides the theoretical tools to clarify both the relation between behaviours and rules, and the concept of a rule effectiveness. Such analytical tools can be further refined by considering an additional question: to what kinds of norms are we referring when speaking of norms' effectiveness? Although it is not the place to present and discuss the various existing typologies of norms (see for instance Moroni 1999), nevertheless it is worth considering two couples of types of rules which seem particularly useful to analyze urban phenomena.

The first couple is constituted by norms-in-actu (in force) and norms-in-intellectu (in mind). The former stands for all valid norms, namely all those approved by a legit public authority.[6] The second indicates a norm that exists only in the mind of a person, without being (yet) valid. Virtually any law can be considered as being in-intellectu – indeed, what is operative is not the law *per se*, but its representation in the mind of the agent (Passerini Glazel, 2018), regardless of its accuracy. Here, however, by norms-in-intellectu we refer to the specific case of a norm that an agent thinks is likely to be approved (is thus likely to become in-actu). The point we want to stress here is that a norm does not need to be valid (i.e. approved) in order to be effective. It is sufficient it is deemed to be close to the approval in order to provoke consequences in the action.

The second couple – which is a further specification of the law-in-actu category – is law-in-books and law-in-action. This binomial has often been object of contested understandings (see Nelken, 1984); here we will refer to the original interpretation proposed by Pound (1910): law-in-books indicates norms as written by law-makers in a politically constituted society, while law-in-action indicates norms as implemented by law-enforcers (e.g. public officials). This differentiation stresses the fact that normative activity is not limited to the legislative sphere, but *de facto* continues during the implementation process. Therefore, behaviours can be found to relate not only with written laws, but also with the way those written norms are exercised by public officials. These latter, in fact, by being located at an intermediate position among legislators and final receiver, do not simply and mechanically implement rules but often construct in their daily practice a (normative) framework for action that differs,

[6] For the intent of this paper it is sufficient to define law-in-actu with this thick definition, despite the concept of norm's validity is subject of a wide body of reflection. In this essays, we rely on the conceptualization of validity advanced by Kelsen (1991 p. 51): "In spite of the fact that the full validity of a general hypothetical norm depends on the recognition of its validity on the part of the individual positing the corresponding individual norm, we can [...] speak of the objective validity of a general norm inasmuch as the general norm can be applied to an individual who does not recognize it, namely, by other individuals who, recognizing the general norm, apply it by reacting to his norm—observing or norm-violating behaviour with the sanctions it decrees to be obligatory".

even significantly, from the one of provided by written norms (Datta 2012). This gap between law-in-books and law-in-action is not only the product of mistakes, but also of conscious manipulation. For instance some laws are systematically applied in different ways depending on the place or the subject in question, and this occurs deliberately relying on the available margins of flexibility and discretionarily of public officials (see several examples in Chiodelli et al. 2020).

Against this backdrop, the aforementioned theoretical framework on the different kinds of impact a norm can have (beyond the simplistic dichotomy of mere compliance/non-compliance) can be made more accurate for the investigation of spatial phenomena by its intersection with the two couples of law-in-actu/law-in-intellectu and laws-in-books/laws-in-practice. Table 1 is a schematization of the result of this intersection with reference to real situations experienced during the period of COVID-19 pandemic lockdown in Italy

| | | | EFFECTIVENESS | | |
|---|---|---|---|---|---|
| | | | nomic compliance | mere nomotropism | nomic non-compliance |
| *Law-in-actu* | *law-in-books* | *It is forbidden to be out of the home if not for working or primary needs, including grocery shopping* | I only go out to go working or to walk to the supermarket. | I walk to the supermarket several times per day. | I go out to reach a friend and I hide myself if I see a policeman. If stopped by controls I cheat on my reasons. |
| | *law-in-action* | *Police officials stop for controls anyone who does not have a shopping bag.* | I go out to go working and, since I do not want to be stopped, I carry a shopping bag. | I go out to go working, but, since I do not want to be stopped, I avoid streets where police checkpoints are usually located | I go out to reach a friend carrying a bag full of grocery food. |
| *Law-in-intellectu* | | *News are speaking of a forthcoming decree tightening restrictions, requiring wearing face masks constantly outside home (and not only in indoor spaces)* | I wear face masks everywhere when I leave home | I believe face masks are unnecessary, so I participate to demonstrations against the proposal of tightening the restriction | * |

** The category of nomic non-compliance is not relevant with respect to law-in-intellectu. Agents can hardly operate against rules that have not been yet approved*

*Table 1 – the varied effectiveness of norms with reference to different kinds of laws*

## 5. Reading the space of Muslims in Italian cities through the lens of nomotropism

This section shows how the theoretical framework sketched so far can be fruitfully applied to the analysis of complex spatial urban phenomena. In particular, it will be used to analyse in depth the use and operativity of law in the formation of Muslims places of worship in Italian cities. Both the authors of this article have, in fact, been previously working on the accommodation of religion in Northern Italy (see Chiodelli 2015; Chiodelli and Moroni 2017; Moroni et al. 2019; Morpurgo 2021a and 2021b) and found how interpreting this process of location necessarily requires to account for the varied ways rules are embedded in spaces and become effective (also) beyond mere compliance. The intention is to show how the logical approach proposed here can be applied to urban research.

To introduce the topic, the first part of this section briefly outlines the situation of Muslims in Italy (their demographic presence, claims and legal framework of reference), while the second narrates, and analyses step-by-step, a story constructed as a realistic fiction.

### *5.1 Muslim presence and struggles for space*

In the last decades Italy has been experiencing a fast diversification in the religious composition of its population (Pace, 2013). Today, with over 1.6 million of Muslims (ISMU, 2019), Islam figures as the second religion of the country. However, despite Muslims increasing demographic relevancy, Islam cannot be said to have gained a proper place; on the contrary its presence in the urban space remains deeply contentious (Chiodelli, 2015). Each time a proposal for a Muslim place of worship becomes of public domain frictions can be expected to escalate (Saint-Blancat and Schmidt di Friedberg 2005). With very few exceptions Muslim's aspirations of place-making remain frustrated, as testified by the fact that, at the moment, Italy counts less than ten purposely built mosques, with most groups still gathering in poorly retrofitted industrial or commercial spaces, located in urban outskirts and characterized by dubious legal legitimacy (Allievi 2009). To many these sites are standing outside the law and thus Muslims are either thought to act ignoring the norms or deliberately opposing them.

From a legislative perspective the issue of minority places of worship appears as a thorny one. On the one hand in Italy religious freedom is a constitutional right and this, on paper, implies granting to anyone the possibility of practicing their own belief both in individual or collective form. On the other hand, however, such possibility must unfold within the limits of what is allowed by municipal spatial regulation (Cc sent. 67/2017). In fact, places of worship cannot be located anywhere, but only in

those areas identified for religious use in local statutory plans. By law (d.i 1444/1968) administrations are required to ensure a minimum footage per inhabitant of area for collective facilities, these including religious facilities. However once that minimum quantity is reached –also thanks to a large presence of Catholic churches –no other obligation must be fulfilled by the municipality. This means that if a local administration misses to envision sufficient areas to be devoted to new collective and religious needs (typically, the religious needs of migrants other than catholic ones), than Muslim groups' possibility to legitimately establish a mosque is *de facto* nullified and any other solution can be condemned for occurring "outside the law" (for an in-depth investigation of such normative questions, see: Casuscelli, 2009; Chiodelli and Moroni, 2017; Tozzi, 2010).

### *5.2 Story telling of (sur)real places of worship*

This subsection proposes a realistic story of a Muslim group trying to access a formal place of worship in an Italian municipality. Such story is constructed through the assemblage of several true experiences collected by the authors in northern Italy[7]; the legislative framework of reference is that currently in force in the Veneto region (Regional law 12/2016). The complex relationship that the different steps of this story and their spatial outcomes entertain with the normative framework – together with the effectiveness of this latter on Muslim group's actions – is subsequently discussed (see Table 2).

Once upon a time (at the beginning of the XXI century), there was a medium size town of the Veneto region, Italy, where the number of Muslims was steadily growing since some years. If at the beginning Muslims were only there to work, often in temporary positions, as their stability grew they started discussing the need of a decent, dignified space, were to hold their prayers and other religious activities. In fact, private apartments used as informal prayer rooms could not be a permanent solution to their religious necessities. Acknowledging of the obligation to comply with local land use regulation for building a mosque, in 2010 they forwarded a request to the Municipality, asking for rezoning an area allowing for the settlement of religious facilities, thus allowing for the realization of a Muslim place of worship (step 1; see Table 2). The Municipality – which was governed by a right-wing coalition leaded by Lega Nord [the Northern League], a populist, xenophobic party – refused such rezoning, for mere ideological and electoral reasons. The legal basis for such refusal was represented by norms on minimum standard requirements of areas for public facilities, according to which the Municipality had already a sufficient number of areas hosting places of worship (thanks to several pre-existing Catholic churches) (step 2).

[7] The events used to construct the narration are driven from the following cases: Thiene, San Bonifacio, Venice (Veneto Region) and Bergamo (Lombardy region). Such cases have been the object of an in-depth qualitative investigation by the two authors between 2015 and 2020.

The Muslim group decided to not give up and consulted a lawyer (step 3). The lawyer suggested to register the group as a private socio-cultural association (step 4). In fact, according to the regional law, socio-cultural associations are free to settle in any kind of building, without the need to comply with specific land use codes or to ask specific permits to the Municipality. In order to be considered as a socio-cultural association, the group needed to simultaneously offer different socio-cultural activities (e.g. language courses or sportive events). Prayer could be one of these activities, but not the prominent one.

Given such information, the Muslim group considered how, whether sub-optimal it appeared, this solution looked as being their only possibility to access a formal and adequate place of worship. Hence, the Muslim group registered as a socio-cultural association – the Venetian Al-Nour association[8] (step 5) – and rented a former warehouse located in an industrial area, close to some residences. The Muslim group settled its headquarters here, the "Venetian Al-Nour Centre" (spatial outcome A; see Table 2). The cultural centre started offering several activities to the local Muslim community, such as Arabic language and traditional cooking courses, besides being used as a prayer room for the Friday prayer (step 6). Everything went smoothly for several months, this until when the group mistakenly wrote a post on Facebook announcing the weekly activities at the "mosque" – not at the "cultural centre", as it was formally registered. This raised protests from the population and the Municipality warned the Muslim group of the illegality of using its headquarters as a mosque (step 7). However, despite the threat, yet no practical measures were taken by the local authorities at that moment, and the situation calmed down soon. That was the time when the Al-Nour association was about to pursue some internal refurbishing works in the warehouse, in order to make it more comfortable and apt for its needs. Worried by the hostility of local authorities and fearing how every further move could work as a pretext for displacing it, the Al-Nour association decided to renovate the warehouse without turning to the municipal planning department (step 8), thus in absence of the necessary permits.

While this was occurring at the local level at the regional level another parallel battle was about to begin. An animated political discussion – triggered by the Lega Nord, that was leading the regional government as well – started on the necessity of tightly regulating the spread of mosques in Veneto. In the circulating drafts the regional law was going to forbid religious activities of minority groups (whatever they were formally organized, including also those organized as socio-cultural associations) outside purposely zoned areas. The Al-Nour association, together with several groups worried on what this law would imply to them, organized a petition to oppose the law (step 9). Despite these efforts, the law was approved in April 2016 (Regional Law 12/2016). It is worth noting that Regional Law 12/2016 does not refer directly to mosques, but more generically to new places of worship. In fact, in February 2016 the Italian Constitutional Court declared unconstitutional several parts

[8] [name of fantasy]

of a similar law on minority places of worship approved by the Lombardy region in 2015 (Italian Constitutional Court, ruling 63/2016; see Chiodelli and Moroni 2017). Because of this precedent the Veneto government framed its law carefully, in order to avoid the same rejection by the Constitutional Court (step 10).

Right after the approval of the Regional Law 12/2016, a chorus of voices, mostly composed by neighbours of the cultural centre and by a local, xenophobic political groups, started to ask for the closure of the Venetian Al-Nour Cultural Centre, claiming how it was a mosque, and not a private cultural circle, therefore illegal (step 11). Under this pressure, and empowered by the new law, the Municipality sent controls to the cultural centre (step 12). Such controls found some elements (i.e. sacred books, carpets on the floor) considered sufficient to infer how the place was used prominently for religious (not cultural) ends. During the controls the public officials also found out of the internal building-works pursued in absence of the needed permits. On the ground of these evidences the administration issued an administrative measure imposing to stop the religious use of the cultural centre and repristinate the building original status (step 13). The Al-Nour association reacted refusing to stop its religious activities (step 14). Responding to the missed compliance, the administration forced the closure of the cultural centre (step 15).

Finding itself without a place, the Muslim group started praying in a parking lot (spatial outcome B), as a way to claim for its Constitutional right to access a space of worship (step 16). In the meanwhile it also appealed the Regional Administrative Court against the closure imposed by the Municipality (step 17). After a couple of months, the court, however, deliberated in favour of the administration, against the Muslim group (step 18) (for a similar decision, see TAR Veneto 0286/2019). Defeated, the Al-Nour association decided to look for an alternative solution. After considering various options, it came to know of an auction in which a former church, thus already located in an area purposely zoned, was on sale. The association participated in the auction and eventually won (step 19). The Region, disliking the idea of Muslims using a former church, exercised its right of pre-emption (step 20). The Al-Nour association decided to recur once again to court, filing the Region for discrimination (step 21). Today the trial is still running. Two possible outcomes can be foreseen. The first corresponds to the standard tale conclusion “they lived happy ever after”. It is the case in which the Muslim group wins the cause and regularly settle in the former church, now (sur)really converted to a mosque (spatial outcome C1). The second possible conclusion sees the Muslims losing the trial and thus the group’s members dispersing, restarting to meet informally in private apartments and small shops without any type of permission (spatial outcome C2).

| Steps | Description | *Law-in-actu* | | *Law-in-intellectu* | Law effectiveness as: |
|---|---|---|---|---|---|
| | | ***Law-in-books*** | ***Law-in-practice*** | | |
| | A Muslim group [MG] needs a dignified space to pray | | | | |
| 1 | The MG asks to rezone an area | NOMIC COMPLIANCE (in-light-of land use law) | | | CONSISTENCY |
| 2 | The municipality refuses the MG request | NOMIC COMPLIANCE (in-light-of the norms on minimum standard requirements) | → *creation of a practice* | | CONSISTENCY |
| 3 | The MG turns to a lawyer | | MERE NOMOTROPISM (in-light-of the administration refusal) | | OPERATIVITY |
| 4 | The lawyer suggests the MG to register as a socio-cultural association | MERE NOMOTROPISM (in-light-of land use and private cultural circles laws) | MERE NOMOTROPISM (in-light-of his knowledge of how administrations tend to behave) | | OPERATIVITY |
| 5 | The MG registers as the Venetian Al-Nour cultural association | MERE NOMOTROPISM (in-light-of the possibilities opened by the law on private cultural circles) | | | OPERATIVITY |
| **A** | The MG rents a former warehouse and settle the Venetian Al-Nour Cultural Centre | | | | |
| 6 | The MG diversifies its activities | NOMIC COMPLIANCE (in-light-of what required by the law on private cultural circles) | | | CONSISTENCY |
| 7 | The Municipality threatens displacement | MERE NOMOTROPISM (in-light-of land use law) | → *creation of a practice* | | OPERATIVITY |
| 8 | The MG misses to ask permits for some building works | NOMIC NON-COMPLIANCE (in reference to laws on building works) | | | INEFFECTIVENESS |
| | | | MERE NOMOTROPISM (in-light-of the Municipality threat) | | OPERATIVITY |
| | The Veneto Region opens a discussion for a new law regulating places of worship | | | | |
| 9 | The MG organizes a petition to oppose the new law | | | MERE NOMOTROPISM | OPERATIVITY |
| 10 | The Regional government draws the law in a specific way in order to avoid the Constitutional Court rejection | | | MERE NOMOTROPISM (in-light-of the presumed verdict of the Constitutional Court) | OPERATIVITY |
| | The Veneto Region approves the law on religious buildings (Regional Law 12/2016) | | | | |
| 11 | Neighbours and xenophobic parties start a protest | MERE NOMOTROPISM (in-light-of the approval of the new regional law on religious buildings) | | | OPERATIVITY |
| 12 | The Municipality sends controls | MERE NOMOTROPISM (in-light-of the new regional law on religious buildings) | | | OPERATIVITY |
| 13 | The Municipality orders to stop the religious use of the cultural centre | NOMIC COMPLIANCE (in-light-of the planning and building laws) | | | CONSISTENCY |
| 14 | MG refuses to stop its activities | NOMIC NON-COMPLIANCE (in-light-of what ordered by the administration) | | | OPERATIVITY |
| 15 | The municipality forces the closure | NOMIC COMPLIANCE (in-light-of the planning and building laws) | → *creation of a practice* | | CONSISTENCY |
| **B** | The MG remains without a space and starts praying in a parking lot | | | | |
| 16 | They claim their right to have an appropriate space of worship | MERE NOMOTROPISM (in-light-of the Italian Constitution and of the closure of their headquarters) | | | OPERATIVITY |

| Steps | Description | *Law-in-actu* | | *Law-in-intellectu* | Law effectiveness as: |
|---|---|---|---|---|---|
| | | ***Law-in-books*** | ***Law-in-practice*** | | |
| 17 | MG opens a cause against the Municipality | NOMIC COMPLIANCE (with respect to the judiciaries rules) | | | CONSISTENCY |
| | | | MERE NOMOTROPISM (in-light-of the closure of their cultural centre by the Municipality) | | OPERATIVITY |
| 18 | The judge deliberates in favour of the municipality | NOMIC COMPLIANCE (in-light-of rules on private cultural circles and religious buildings) | → *creation of a practice (precedent)* | | CONSISTENCY |
| 19 | MG participates to an auction for the sale of a former Catholic Church and wins it | NOMIC COMPLIANCE (in-light-of the requirements needed for places of worship and of the auction rules) | | | CONSISTENCY |
| 20 | The Region exercises their right to pre-emption | NOMIC COMPLIANCE (in-light-of the rules regulating hierarchies of pre-emption) | → *creation of a practice* | | CONSISTENCY |
| 21 | The MG recurs to court | NOMIC COMPLIANCE (in-light-of judiciary rules and the Constitution) | | | CONSISTENCY |
| | | | MERE NOMOTROPISM (in-light-of the Region pre-emption) | | OPERATIVITY |
| **C-1** | The MG wins the cause and a Mosque is created in the former Church | | | | |
| **C-2** | The MG looses the cause and the members gathers in small groups in private apartments | | | | |

*Table 2 – Analysis of the location of a Muslim groups through the tools provided by Nomotropism*

As it is visualized by Table 2, this story is characterized by the complex entanglement of the actions of its protagonists (the Muslim group and the Municipality) and secondary characters (the Regional government, the Regional Administrative court, the local residents) with an assemblage of normative sources. Such assemblage is not only composed by different types of norms (i.e. *laws-in-books*, *laws-in-practice* and *laws-in-intellectu*), but it is made extremely intricate also by the diversity of legal sources (i.e. municipal and regional levels; legislative, executive and judicial bodies) and artefacts (i.e. bylaws and constitutional norms; permissions and obligations). Opposing the usual public narrative of such cases as stories of mere illegality, a knotty legal jungle has proved to play a pivotal role in the case of the Venetian Al-Nour Cultural Centre. Non-compliance is a minority instance of the nexus between action and the law – and, in any case, takes mostly the shape of nomic non-compliance, so as the law keeps being effective. It is instead mere nomotropism the one emerging as being the true protagonist of the aforementioned story: it is greatly through this form of nomotropism, where agents neither comply nor transgress the law, that rules becomes a constitutive of space. In a nutshell, almost nothing takes place simply outside-the-law. This applies also to the (actual and foreseeable) spatial outcomes of the instance under investigation. Under an instrumentalist viewpoint they would be ontologically plain and simple, sometimes essentially illegal (as in the case of the cultural centre used as a prayer hall) and sometimes essentially legal (as if

the former Catholic church will be assigned to the Muslim group and converted in a mosque). Differently, under the kaleidoscopic lens of the concept of nomotropism, they appear to be the spatialization of a composite tangle of the varied ways of the law being effective, beyond too rigid dichotomies such as legal/illegal or compliant/non-compliant.

## *Concluding remarks: for an accurate investigation of how law takes place.*

It is likely that no one, neither among Muslim migrants in Italy, nor among local politicians dealing with the issue of mosques in their local jurisdictions, have ever heard of the term nomotropism, or acknowledge the difference between effectiveness-as-compliance, effectiveness-as-embeddedness or effectiveness-as-operativity. Most likely, they would all label such issues as some sterile scholarly onanism; this does not however prevent how, from an analytical point of view, their daily actions deeply validate such concepts. From the moment someone thinks to a place of worship to its actual use or physical creation, the influence of law is continuously at play and it assumes a multiplicity of different semblances which, for the most part, diverge from mere compliance. In effect, rule's effectiveness can be shown to transcend the strict compliance/non-compliance dichotomy, it instead includes a wide range of actions that transgress, or fail to comply, with the law. Said in a more academic fashion, if by effectiveness we identify any instance in which a norm causally influences an action, compliance is not a necessary nor a sufficient condition for a norm to be effective. As implied in the concept of nomotropism, a rule must be seen as effective not only when it determines the compliance of an action with its prescriptions (nomic compliance), but also in, at least, two other instances. First, in the case an action, while transgressing a norm, it is influenced by its existence (nomic non-compliance) and, second, when an action is shaped by the existence of a norm but it does neither comply nor transgress it (mere nomotropism)[9]. This logical framework can be fruitfully applied to the analysis of different contexts and to inquire the impact of different types of norms, as a specimen, the typologies considered in this work have been selected for their relevancy to the unfolding of urban life. We thus distinguish *law-in-actu*, that is laws that have been approved by a legit public authority and are therefore valid, from *law-in-intellectu*, that is norms that an agent thinks will be soon approved (but are not yet valid from a formal viewpoint). Further, two more sub-categories of *law-in-actu* are considered, they are *law-in- books*, indicating laws as written in legal codes, and *law-in-action*, standing for laws as applied by public officials. The overlapping of these logical and analytical layers shapes a tangle – spatially and temporally situated, and ever changing – composed by different types of interactions among human behaviour

[9] Simultaneously, an action which is in line with the prescriptions of a norm does not necessarily imply the effectiveness of such a norm. In fact, such action can be caused by other reasons that the respect of the norm.

(and the spatial artefacts it produces) and different types of law. This outcome, far from a reassuringly linear, and stable image, as eventually obtained from the application of a binary paradigm, is stratified and convoluted: closely approximating the factual, messy, way in which law and space interact in the urban environment. The realistic fictional story of Venetian Al-Nour Cultural Centre, narrated in the previous section, is just one among many examples that can be brought to exemplify how the proposed interpretative apparatus, resting on the concept of nomotropism, far from being a purely speculative, self-referential exercise, provides a perspective that, by taking into serious consideration the complex process of the worlding of the law, seems both useful and relevant for an accurate analysis of many complex urban phenomena. In sum, if compared to other analytical frameworks, especially if based on dichotomic categories (e.g. legal/illegal, formal/informal, conformative/strategic), a view of rule's effectiveness as operativity can allow a more adequate understanding of the many ways in which the normative sphere *lato sensu* (this including lawmakers and law enforces, local and national laws, by laws and constitutional norms, sanctions and permissions) – is uptaken, twisted and inhabited, eventually leading to the creation of a (sur)real space.

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# CONCLUDING REMARKS
# Directions for locating diversity

*Sikh women celebrating at the annual Guru Nanak festivity*

We should recall that the initial question guiding this research was *how is planning relevant to the way diversity takes place, and how can it eventually be rethought if one wishes it to play a different role?* To narrow the focus and avoid addressing the issue only in general terms, the work further articulates this question through religious diversity and locates the inquiry in Italy, and more specifically in the Veneto region, a context characterized by a high demand for religious space which in the last decades has remained substantially unaddressed.

In order to look at the various issues implied by this question, the dissertation brings up a multiplicity of literatures, suggestions and discourses and variously connects them, constructing a knot-like structure which suggests that any intent to look at the relevance of planning for the accommodation of diversity must necessarily look beyond planning, obviously to space, but also to politics and law. Neglecting the dependency (and co-constitution) of spatial regulation from these two neighbouring domains will inevitably lead to a partial, and in some sense

unsatisfactory,understanding of the function that planning can play in addressing the challenges of an increasingly heterogeneous landscape.

The answer to these questions does not take the shape of a uniform body of work but rather of three separate inquiries that shed light on the same central core from different angles.

The former looks at the function that planning currently plays in the accommodation of religious diversity in the Veneto Region. After having highlighted how planning is being employed in strategies of avoidance, concealment and refusal to maintain a religiously homogeneous landscape, the paper then asks whether planning, for the way it is currently configured in Italy, can be up to the challenge of accommodating diversity or, instead, if there are some limits which systematically impede it. The answer is negative, and three limits of planning are consequently discussed; they go under the labels of technical, cultural and political.

The first, technical limits, regards the scarce correlation among the fragmented characteristics of society and the tools used to regulate its spatial presence, as well as the poor coordination among different types of spatial regulations. The second, cultural limits, is about the way in which cultural and religious biases are subsumed in allegedly neutral technical procedures. The third, political limits, is about the relation of dependency of planning on politics and the unclear allocation of responsibilities among them. If we wish planning to stop systematically favouring a homogeneous landscape, then all of these limits need to be addressed. This means that planning tools and procedures should not be naively pictured as neutral; their most blatant biases should be made explicit and corrected so that even when blindly applied, planning will not automatically support the *status quo*; it will instead leave open a variety of outcomes. This revision, however, must go hand-in-hand with a clearer allocation of responsibilities among politics and planning; in fact, if we continue to attribute political responsibilities to spatial regulation, then a whole set of aspirations will have a high probability of being systematically frustrated because they are mistakenly applied to planning.

Moving from here, the second of these inquiries explores the role of planning in the spatial translation of the legal category of religion. In other words, it looks at the way religion is defined legally and further redefined spatially through spatial regulation. From this exploration emerges how, although in legal terms the “religious” remains widely undefined, and it is uncertain how to differentiate it from the “non-religious”, yet planning, through a process of “essentialization” operates as if it were something with a clear shape. Through requirements of building and use conformity, spatial regulation literally draws borders around religion, and limits the possibility of groups to legally locate. Reviewing a vast amount of secondary material, this work identifies in the “ideology of use conformity” a major responsible for the systematic marginalization of minority religious groups in Italy.

In order to reverse this trend and make planning more welcoming of diversity (and to the dynamic and fast changes it implies), the work argues we should stop systematically and uncritically applying generic, potentially discriminatory, use

categories into space and blindly assuming their immanent validity. Instead, we should deconstruct and eventually abandon the use of abstract, essentialized categories (such as religion) in favour of a more relational kind of spatial regulation which prioritizes elements of relational nature, thus to be grounded in external, concrete and negotiable categories (such as noise or traffic) unbounded from evaluations on land use conformity. It means that even when dealing with some new, different, and even disrupting behaviour we should favour and strengthen those (already existent) aspects of planning dealing with the impact that actions have on the surroundings rather than on those planning procedures concerned with the nature of those actions, fundamentally disconnecting these two aspects. In order to effectively articulate this proposal acceptable levels of externalities (or nuance) should not be pre-established once and for all, but they should instead constitute the new terrain on which spatial conflict legitimately unfolds, creating a new political terrain. The question that planning should address would thus no longer be, can a place of worship be located in a certain area of the city, but rather, how much noise or traffic can any activity produce in that area, and how do we determine acceptable levels of noise by accounting for, and weighting, different claims and necessities?

Finally, the third of these inquiries argues how, in order for planning to play a conscious role in the accommodation of diversity, we need to refine our analytical tools to better understand how rules, including masterplans, are relevant to behaviour and space. In more general terms, this last, and more theoretical part, asks when and how law can be considered to be spatially effective. Since the main paradigms at our disposal – instrumentalist and constitutive – did not seem to provide a satisfying framework for the systematic analysis of complex urban phenomena, then this part of the dissertation looks at the theoretical insights that can be derived from the concept of nomotropism (acting-in-light-of-the-rule). On this basis, the paper then argues how spatial analysis and, by extension, planning practice, would benefit from an understanding of laws' effectiveness as operativity. This means acknowledging how norms are creatively inhabited and are effective when some action is causally related to them and not only when they are passively applied.

Under this paradigm, unauthorized places of worship (as most of those considered by this research) cannot be simply cast as "out-of-the-law"; they emerge instead as expressions of that very same law they are generally blamed for violating.

If planning wishes to play a different role in the accommodation of diversity, it must be able to recognize how the relations among law, behaviour and space do not respond to binary schemes of compliance and transgression but are complex and messy. If planning fails in this intent, it will never be able to have a complete view of its power (and of the responsibilities that come with it).

Ultimately, the hope for this thesis has been twofold: first, to understand how planning practice is relevant to the unfolding of diversity in urban space, and second, to advance proposals for how to address shortfalls in spatial regulation. Of course, the insights advanced in this work are based on my personal endeavours, which are necessarily limited in both time and space. Further research is therefore advisable, and

different directions can be suggested. Comparative research both among Italian regions and among different countries is advisable and, at the moment, both are strongly lacking. For instance, this thesis has highlighted how the Lombardy and Veneto regions both recently approved laws restricting the ability of religious groups to settle. Despite this similarity, it can be observed that in Lombardy the approval of the law was followed by a consistent increase of cases brought in front of the local administrative tribunal, while in Veneto cases brought in front of the court decreased. Why do we find this geographical difference? What changes across the porous border separating Lombardy and Veneto? Comparative research that looks at what is occurring across different countries is also lacking; for instance, what is the impact that deeply diverse planning systems as confomative or performative ones –have on the way religious groups are allowed (or not allowed) to locate? Further, very little work has been done that compares different groups; for instance, Scientology seems to be gaining access to centralized locations with relatively little conflict and planning disagreement. Of course, the same cannot be said of Muslims.

Other questions that have emerged during this research were related to the political process that might lead to the modification of planning laws: for instance, how do general discourses over identity translate into three short articles in a regional planning law? Records of regional council and commissions meetings seem to be promising material that is worthy of further inquiry.

Taking a slightly different angle: this thesis has repeatedly highlighted how law and space are bounded by deep connections—in one expression, how "law is worlded". Very little attention, however, in Italy is given to this process of location. Let's consider, for instance, the introduction of a norm allowing a faster procedure of divorce: how did such a law translate in space? Or, looking at the issue the other way around, what normative features allow, favour or constrain, and thus ultimately shape the single-family house? If taking seriously the connection at the interface of space and law, countless questions of this and of a similar kind can be formulated.

To recap: on the grounds of what observed in Veneto, this dissertation highlights how in Italy, planning currently operates by systematically reproducing the *status quo* as well as inhibiting and constricting religious diversity. In response to this situation, the dissertation argues that planning (theory and practice) can be rethought so to play a different role that does not substitute for politics, but that also does not invariably and systematically exclude difference from urban space. There are probably several ways to look at the issue, and more research is surely required and advisable. Nevertheless, from what emerges from this research it is possible to suggest the revision of spatial regulation so as to make it more a) critical, thus increasingly aware of the biases hindered in its tools and procedures in order to become capable of addressing and deconstructing them, b) liberal, thus willing to leave diversity the possibility to express and locate free from strict requirements of use conformity c) nomotropic, thus abandoning a dichotomic understanding of effectiveness in favour of a more complex view of how norms are linked to spatial outcomes.

This triple shift might lead planning to finally recognize and operate with "difference in mind", thus reassessing a new commitment to current and future needs in the society, including those needs stemming out of society's increasingly kaleidoscopic nature. The direction suggested by this work does not imply a judgement of value over the willingness, or unwillingness, of diversity. It does however imply an increasing awareness of its unavoidability. Given how cities are diverse, and they will increasingly be so, this work asks planning to not aprioristically reject the change that comes hand in hand with this heterogeneity. It asks planning to appreciate, approach, accommodate and inhabit change without systematically drawing borders around it.