Recent Developments Concerning the Promotion of Freedom of Religion or Belief in Italian Foreign Policy

By Pasquale Annicchino

The right to freedom of religion or belief has visibly made an entry into the international arena through specialized institutions aimed at its protection and promotion in multilateral fora, in international organizations, and in relationships with third countries (countries that are not part of the European Union) and civil society at large.¹ This is also true in the case of Italy, which recently joined the growing number of countries with dedicated policies for the protection and promotion of freedom of religion or belief in their foreign policy. In this article I provide a brief update and analysis of the recent attempts undertaken by the Italian Ministry for Foreign Affairs in the field. An English translation of the protocol between the City of Rome and the Ministry for Foreign Affairs establishing the Italian Oversight Committee for Religious Freedom is provided in the Annex.

The Politics of Religious Freedom in Italian Foreign Policy

Religion and freedom of religion or belief (hereafter FoRB) have always been part of wider policies dealing with the relationship between Italy and third countries, especially in the Mediterranean area. As argued by Pasquale Ferrara (forthcoming):

Traditionally Italian foreign policy after World War II, during the Christian-Democrat led governments, has not articulated in an explicit manner the issue of religious freedom as a leading topic of international relations. This does not mean, however, that Italian foreign policy ignored the issue; rather, religious freedom was “embedded” in the Italian approach to North Africa and the Middle East, as one of the many aspects of the Italian “projection” in the Mediterranean.
Recently however, especially post-9/11, interest in religion in general, and in religious freedom in particular, has grown, and a number of national governments and multilateral institutions have begun to focus more specialized attention on FoRB. Human rights have increasingly become a tool for negotiation in the foreign policy of many states. Italy is no exception. We can distinguish two key phases in Italy’s turn toward political and legislative integration of FoRB in foreign policy. The first is characterized by the initiative of Franco Frattini as Minister for Foreign Affairs in the fourth Berlusconi government; the second followed the resignation of Silvio Berlusconi as Prime Minister and the appointment of Giulio Terzi di Sant’Agata as Minister for Foreign Affairs.

**Franco Frattini**

Before becoming Italian Minister for Foreign Affairs for the second time in 2008, Franco Frattini was European Commissioner for Justice, Freedom and Security between the end of 2004 and 2008. From that position, he started to develop a particular interest in the protection of freedom of religion or belief and protection of fundamental rights, which was reflected in the establishment of the European Agency for Fundamental Rights. In addition, after several attacks directed against different Christian communities in the world, many policymakers, also under pressure from religious groups, felt the need to signal their attention to the issue by beginning to enact specific policy measures to address the problem.

Frattini tried to work at different levels in order to foster proactive action on the part of the Italian Ministry of Foreign Affairs and other European institutions in the protection of FoRB. Within the Ministry itself, a special informal task force unit was established and placed in charge of the study and analysis of religion in international affairs. And at the European level, Frattini worked with likeminded leaders from other European states and within the EU to prod European institutions to speak out and do more on FoRB. This was mainly done in the context of the meetings of the EU Council for Foreign Affairs and through bilateral relations with other foreign ministry officials. As a result of such efforts, the EU began to engage in more focused discussions and to approve a series of parliamentary resolutions related to FoRB.
The momentum that Frattini helped create eventually led (during the term of Frattini’s successor Giulio Terzi di Sant’Agata) to the approval on June 24th 2013 of the *EU Guidelines for the Protection and Promotion of Freedom of Religion and Belief* (Council of the European Union 2013). These guidelines are designed to serve as a toolkit to guide the political action of the European External Action Service, although they are not formally legally binding. The guidelines foresee multiple different kinds of actions: in bilateral relations, multilateral initiatives, financial support through the European Instrument for Democracy and Human Rights, and training for European diplomats (see Annicchino forthcoming).

Frattini’s record on issues at the intersection of religion and international affairs also illustrates some of the tensions that exist among Europeans regarding the definition and extent of religious freedom. For instance, Frattini devoted significant energy to overturning the first decision of the European Court of Human Rights of November 2009 in which the Strasbourg Court condemned Italy for violating Article 9 of the European Convention of Human Rights by requiring the mandatory display of the crucifix in Italian public schools. The decision caused an immediate uproar from many different sectors of Italian public opinion, and the Minister for Foreign Affairs was central in the coordination of the Italian request for review before the Grand Chamber of the Court. Many states intervened in support of Italy, and in March 2011, the first decision of the Court was overturned, leaving a wide margin of appreciation for Italy to decide on whether to request the display of the crucifix in public schools (see Annicchino 2011). This judgment was perceived as a major victory for the Holy See and had global echoes in the Christian and Catholic global community.

At the U.N. level, Italy has been the proponent of a “Resolution on combating religious intolerance and violence against persons based on religion or belief,” which passed in 2011. This resolution marked a historical departure from a text previously adopted on “defamation of religions” that many Muslim-majority states had pushed (U.N. Human Rights Council 2011). Previous texts had been the object of significant criticism concerning the fact that the resolutions were modeled on the protection of religious faiths as ideas, and not modeled as conventional international human rights standards requiring the protection of individuals (Scharffs 2013). Frattini devoted special attention and efforts to particular high profile cases that were widely debated in the international community. Firstly, he tried to establish a framework of cooperation with Pakistan for the protection of Christian minorities.
Shahbaz Bhatti, a prominent Pakistani critic of his nation’s blasphemy laws, even visited Rome in September 2010, and during his visit, Frattini promised Italian action to present a draft resolution at the UN on the protection of religious minorities (Ministero degli Esteri 2010). Bhatti was later assassinated because of his stance. The former governor of Punjab, Salman Tasser, was also killed for criticizing Pakistan’s approach to “blasphemy” and “defamation,” this time by one of his bodyguards. Another case to which the Italian Minister for Foreign Affairs devoted particular attention was that of Shoaib Assadullah, a convert to Christianity arrested in October 2010 for giving a Bible to a friend. He was finally released from prison on March 31st 2011. The same kinds of efforts were undertaken in the case of Asia Bibi, a Pakistani Christian woman who was convicted of blasphemy by a Pakistani court. The case received worldwide attention and even Pope Benedict XVI called for clemency. Frattini received a personal guarantee by Asif Ali Zardari, President of Pakistan, that Asia Bibi would have not been sentenced to death. Moreover Frattini during his mandate stressed on many occasions the difficult situation that Christians suffer in Nigeria, Egypt, and Kurdistan.

It is not easy to evaluate the different initiatives undertaken by Minister Frattini in the field. Taking into consideration also the peculiar role of the religious factor and the strong influence of the Vatican in many aspects of the policies enacted by the Berlusconi government, for a general evaluation of the policy initiatives undertaken by Frattini, we might agree with Pasquale Ferrara (forthcoming), according to whom:

The assertive tone on religious freedom often used by the Minister of Foreign Affairs Franco Frattini was, consequently, a combination of an internal and legitimate ideological agenda, a genuine concern for the respect of fundamental human rights and an issue related to the role of Italy in the region. In this context, the narrative on religious freedom was fundamentally based upon the concept of "protecting" Christian minorities, although officially the rationale was the advancement of religious freedom as a universal value.
Giulio Terzi di Sant’Agata

Giulio Terzi di Sant’Agata became Minister for Foreign Affairs with the creation of the Monti government in November 2011, after the resignation of Silvio Berlusconi as Prime Minister. Giulio Terzi, a professional diplomat, served among other appointments as Permanent Representative of Italy to the United Nations in New York, and also as Italian ambassador to the United States. Terzi continued along the lines already advanced in the previous government by Frattini, thus maintaining FoRB as one of the focal points of Italian foreign policy (Terzi 2012). He did so by continuing the efforts of the ministry in individual cases such as that of Asia Bibi and also along two main lines of action. First, he maintained a constant exchange with other states in multilateral fora and especially in the European area, a process that, as we have previously mentioned, led to the approval of the EU Guidelines for the Protection and Promotion of FoRB in the External Action of the European Union. Italian political pressure was very important in reaching this political result. In fact Italy was a key player in putting the draft guidelines forward for the approval of the EU Council and in the establishment of an informal working group on FoRB within the EU.

Second, he played a leading role in an important institutional innovation within Italian government, namely the creation of the Italian Oversight Committee for Religious Freedom. The text creating the observatory is a political protocol between the City of Rome and the Italian Ministry for Foreign Affairs. Contrary to other similar instruments, the protocol in Article 2 stresses how its goal is not only to deal with freedom of religion in foreign policy, but also “within the municipal area of Rome.” Article 3 creates the Oversight Committee, which is composed of five people, two of whom are appointed by the Ministry for Foreign Affairs, two by the City of Rome, and the final member by agreement between the parties. According to Article 3.3 the members of the Oversight Committee will themselves regulate the internal functioning of the institution, and its methodology of work. Article 4 provides for a duty to exchange available information between the parties. Article 6 establishes, with a sunset clause, the duration of the agreement for two years, providing for the possibility of renewal for another two years. The agreement does not provide many other details or guidelines to orient the action of the institution, or particular lines of financing for the cost of the running operations.
Some interesting points of reference which help us to understand the environment in which the protocol was conceived of and drafted were offered during its presentation in Rome in March 2012. At the presentation of the Oversight Committee, two cardinals of the Roman Catholic Church stressed how the relevance of “discrimination against Christians” is central to the Holy See’s policy on FoRB (Galeazzi 2012). Mayor Alemanno even underlined how the Oversight Committee was to be understood as an “ideal gift to Benedict back in 2009,” (Cervellera 2012) and Minister Terzi stressed how besides the cooperation with the EU in this case, there was also cooperation with the Vatican. This is not particularly new in the framework of Italian action in the field, but the influence of the Vatican seems to be particularly evident in the case of the Oversight Committee.

Concluding Reflections

Italy has been an important player in recent developments in the European arena concerning the role of FoRB in foreign policy. This trend brings into relief several key issues that will bear close scrutiny and discussion going forward. First, from the time that Frattini became Minister for Foreign Affairs through to today, Italian action on FoRB has generally been coordinated with other European partners, as the final outcome of the approval of the EU Guidelines seems to confirm. At the same time, however, as far as freedom of religion and belief are concerned, there have often been major disagreements. As the saga of the crucifix case before the European Court of Human Rights shows, amongst European countries there are different understandings of the notion and the limitation of the right to religious freedom.

Second, the creation of the Oversight Committee with the protocol between the Municipality of Rome and the Ministry for Foreign Affairs raised delicate questions and introduced challenges for the coordination of action with the European External Action Service. From the text of the agreement it is not possible to understand how the observatory will operate, how the data on violations of freedom of religion or belief will be collected, or how the notion of freedom of religion or belief is defined in the working operations of the institution. Given the schizophrenic character of Italian politics, it remains to be seen what will be the future of the sunset clause introduced by Article 6 of the agreement. At first blush,
it seems that the future of the Italian foreign policy on FoRB will be more dependent on initiatives taken in Brussels than in Rome.  

Finally, at a practical level, one might also wonder if “an ideal gift to Benedict,” as Mayor Alemanno described the Oversight Committee for Religious Freedom—thereby associating a policy action in such a delicate field with a particular religious community—will really help the cause of freedom of religion of belief. Good intentions are not a substitute for carefully planned, politically intelligent and inclusive policy action. This is especially the case when religious freedom is at stake; public institutions should be perceived as acting impartially, and not privileging particular faiths. As the Special Rapporteur for Freedom of Religion or Belief highlighted in his last report, religious freedom should be “consistently understood from a human rights perspective” (U.N. Human Rights Council 2012, 5).

ANNEX

Protocol of Understanding Creating the Oversight Committee for Religious Freedom

CITY OF ROME

Ministry of Foreign Affairs

PROTOCOL OF UNDERSTANDING

between

The City of Rome, headquartered in Rome, Piazza del Campidoglio 1, represented by the Mayor, Hon. Giovanni Alemanno, with the office as domiciled above (hereinafter, “City of Rome”),

and
The Ministry of Foreign Affairs, headquartered in Rome, Piazzale della Farnesina 1, represented by Minister Giulio Terzi di Sant’Agata, with the office as domiciled above (hereinafter, the “Ministry”)

given

- that among the fundamental principles of its Constitution, the Republic of Italy recognizes and guarantees inviolable human rights (art. 2); the equal social dignity of all citizens before the law without distinction on the basis of sex, race, language, religion, political opinion, or personal or social conditions (art. 3, clause 1); as well as the equal liberty of all religious confessions before the law (art. 8);

- that, in particular, the right to religious freedom finds solemn expression—even on the international level—in the “Universal Declaration of Human Rights” proclaimed by the General Assembly of the U.N. in 1948 (art. 18) and in the two successive resolutions of the General Assembly, no. 36/55 of November 25, 1981 and no. 48/128 of December 20, 1983, respectively.

- that the process of rights resulting from the full implementation of religious freedom, as universally recognized above, unfortunately must constantly confront with political and social contexts that, on diverse geographical fronts, block its implementation, as lately confirmed by the 2011 report of the Special U.N. Rapporteur on freedom of religion or belief and as affirmed by the resolution of March 24, 2011 of the U.N. Council of Human Rights;

- that this testifies once again of the necessity that public institutions, at whatever level of government, persevere in the adoption of policies and in the projection of positive actions to overcome these grave and critical social situations;

- that the Ministry of Foreign Affairs retains in defense of the freedom of religion and worship, as in defense of religious minorities, a fundamental relevance in Italian foreign policy, by promoting in 2010 the adoption by the European Union of a “Plan of Action” on freedom of religion or worship and launching, in the appropriate offices of international institutions—also in concert with other European partners—numerous initiatives supporting policies against direct and indirect discrimination founded upon religion;
- that the City of Rome, in conjunction with its responsibilities deriving from being the capitol of the Republic, consciously assumes its historic role of being “the center of Christianity, the point of encounter between diverse religions, cultures, and ethnicities,” a role with respect to which it has assumed the task of “promoting dialogue, cooperation, and peaceful coexistence among peoples,” as declared by art. 1, clause 1, of its fundamental Statute,

- that the aforesaid historical and cultural vocation authorizes the City of Rome to assume a role of primary territorial interlocutor for implementation of strategies and affirmative actions aimed at affirming the rights connected to religious freedom, so as to increase the level of social cohesion in its community and to represent, also at the international level, a symbolic place of dialogue and peaceful coexistence among different persons and religions;

- that the Parties, consistent with the institutional roles and activities evidenced here, find it useful and profitable to initiate a collaborative synergy in this important area of governance, with the goal of contributing to the process of building a society that distinguishes in the affirmation of religious freedom the valuable criterion of effective respect of the human rights ratified by international bodies;

- that art. 15 of law no. 241 of August 7, 1990 provided for the possibility of public administrations concluding agreements among themselves to regulate the mutual development of activities of common interest;

given all this,

THE FOLLOWING IS AGREED

Article 1

(Reference to the Recitals)

1. The recitals hereto form an integral and substantive part of this Protocol of Understanding.
Article 2

(Purposes)

1. With the execution of this Protocol of Understanding, the City of Rome and the Ministry of Foreign Affairs mutually acknowledge their intention of initiating a journey joined to the study, analysis, and monitoring of the conditions incident to the endorsement of religious freedom, with specific reference to the social-cultural context of the City of Rome.

2. The collaboration referenced in clause 1 may also be expressed by the joint proposing and planning of specific affirmative actions, also for the use of their different and respective levels of government, aimed at overcoming identified critical situations and in any event to furnish a current portrayal of the same.

Article 3

(Oversight Committee)

1. For implementation of the activities set forth in article 2 there is instituted an Oversight Committee, to be called the “Oversight Committee for Religious Freedom,” composed of five members, two nominated by each of the Parties, and the fifth, who will assume the responsibility of Coordinator, by joint agreement of the same Parties.

2. The members of the Oversight Committee, which will function on a pro bono basis, will be authorized to periodically invite information from experts, representatives of religious confessions, spokespersons from scientific communities, representatives of public and private bodies, relating to the specific work of the Oversight Committee. No compensation of any nature shall be paid to any such persons as may become involved in the work of the Oversight Committee.

3. The members of the Oversight Committee may fix, by means of a specific internal procedure, operating rules for the same Committee as well as its methodology of operation.
4. The Oversight Committee shall be headquartered in the City of Rome and may also meet at locations supplied by the other Party. The Secretariat of the Oversight Committee shall be composed of two persons from among the employees respectively identified by each of the Parties.

**Article 4**

(Sharing Information)

1. To the ends of all that is provided in this Protocol of Understanding, the City of Rome and the Ministry of Foreign Affairs undertake to work with the maximum informational synergy, in such a way as to share, in full observance of applicable laws, information relating to portrayal of the frame of reference.

**Article 5**

(Instruments of Implementation)

1. The Parties mutually acknowledge that the present manifestation of intentions will be implemented in accordance with the regulations provided by their respective ordinances and with respect for applicable legal norms.

**Article 6**

(Duration)

1. This Protocol of Understanding will be effective for two years from the date of execution indicated below. The effective period may be extended by an additional two years subject to the agreement of the Parties.

The present document will be executed in two originals, one for each of the Parties.
Rome, January 10, 2012

CITY OF ROME

s/

The Mayor
Giovanni Alemanno

MINISTRY OF FOREIGN AFFAIRS

s/

The Minister
Giulio Terzi Sant’Agata

References


Religion and Belief in Foreign Policy: Which One?, edited by Pasquale Annicchino (on file with the author).


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1 The author acknowledges travel and research funding from the ReligioWest project based at the Robert Schuman Centre and financed by the European Research Council.
4 The use of this judicial doctrine allows the European Court of Human Rights to assume, on certain issues where there is no consensus among the different States that are part of the European Convention on Human Rights, an attitude of deference to those states in interpreting the meaning and limits of rights.
5 For example, by asking for information on his detention.

The present members of the Observatory are: Massimo Introvigne (coordinator and former Personal Representative of the OSCE Chairperson in Office on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and discrimination against Christians and Members of others Religions), Diego Braisoli, Roberto Vellano, Attilio Tamburrini, and Roberto Fontolan.

It should, however, be emphasized again that the new guidelines, as the EU itself confirms, are not legally binding on EU institutions: “With the Foreign Affairs Council’s adoption on June 2012 of the EU Strategic Framework on Human Rights, along with its Action Plan, which encompasses the adoption of new EU Guidelines on FoRB, the EU stepped up its commitment to address this issue. Such guidelines will not be legally binding, but politically underline that FoRB is a high priority for the EU” (Council of the European Union 2013, 93).

As highlighted by Heiner Bielefeldt (2013, 34): “Particularistic identity politics, often hand in hand with political partisanship on behalf of specific religious kin groups, threatens to obscure the universalistic normative aspirations around which freedom of religion or belief has been conceptualized.”

Translated by Frederick Mark Gedicks and Pasquale Annicchino.