

ABSTRACT

The «phygital» churches

In an effort to slow the spread of the coronavirus, states have issued guidelines or orders that restrict social interaction. These rules also apply when it comes to in-person worship services and other religious gatherings. The governments have ordered often the closure of places of worship and the suspension of religious services.

The religions necessarily have reorganized their religious activities, also through the use of technology and the internet. Religious rites thus move into virtual reality. The faithful participate in it and see their place of worship, but through their computer, tablet or smartphone. The moments of aggregation between the faithful move from the churchyard to the social platforms. The religious service is followed live on the main streaming sites.

The parishes and other religious communities celebrated the religious services live on streaming platforms and are followed by hundreds of faithful from their homes. The processions and Christian religious events planned for the Easter period were broadcast live on Facebook and Youtube. The Holy Week celebrations presided over by Pope Francis were without faithful and broadcast in live streaming.

The Jewish Carnival, scheduled for March 9, took place on a streaming platform that allows the active participation of the faithful. Being heard by others, the faithful can have the feeling of really being in the synagogue. In all these cases, the minister of worship is in the sacred place and the faithful can follow the religious function through the computer tools.

We are witnessing the birth of «phygital» place of worship. The place of worship exists in physical reality and retains its sacred value but the faithful see it through a screen.

The spread of «phygital churches» has prompted some IT companies (such as Amazon Web Services) to develop informatic solutions for religious organizations to share and encourage the participation to religious services. The faithful can connect to the «phygital» place of worship for individual prayer or to attend the religious celebration.

This new dimension of place of worship paves the way to some problems in order to protection and promotion of religious freedom.

1. The privacy of faithful

The first one is the right to privacy of faithful that virtually participate to religious services (by social network or another streaming platform). Art. 9 of the UE Regulation n. 279/2016 includes religious data among the particular categories of personal data. Indeed, their treatment can create significant risks for fundamental rights and freedoms. The participation to religious services is an explicit declaration of religious affiliation which in some way must find possible forms of protection of the privacy. These data could in fact be used not only by religious organizations but also by platform managers and other internet service providers. By whom and how will religious data be processed?

2. The protection of place of worship

The legal definition of “place of worship” should be reworked by jurists. The place of worship, according with jurisprudence, is a space in which the faithful, both individually and collectively, go to exercise their religious activities. When a place become a “place of worship”, a special *favor* law is applied to it. The aim of this special normative is to promote the religious freedom.

Sacred places in fact assume a significant social and religious function, whose promotion and protection are ensured by law through the limitations of public powers and the faculties connected with the right of property, as well as the provision of a particular discipline legal. The destination to worship contributes to the construction of a complex legal regime of the religious building, which is the result of the stratification of unilateral juridical sources and agreements and religious norms.

So, can we applicate the special law also to «phygital» place of worship?

Is the place where the minister celebrates a place of worship even if the faithful are not physically present? Or has the place of faith totally dematerialized and coincides with the digital platform used from time to time by religious organizations?

The paper aims to investigate these legal aspects of the digitization of place of worship. It also aims to identify legal forms of protection of the faithful and of the places assigned to worship activities. The identification of juridical solutions that satisfy the cultural needs and that promote the concrete exercise of freedom of worship is one of the main objectives of the activity of the legislator and the jurist. The technologic evolution of the society imposes to the interpreter a constant re-reading of the norms relative to places of worship as well as the identification of new juridical instruments in order to guarantee the effective exercise of religious freedom.