De-radicalisation in Italy: is 'emergency' a strategy per se?

di Giovanna Spanò

Abstract: Italy does not devote any specific legislation to (de)radicalisation. The national framework consists of a plethora of provisions enacted following escalations in extremism, political or religious violence. Indeed, the legislation has been drafted in connection with precise emotional and alarmist waves, entailing an emergency structure and a repressive pattern. Hence, the focus is addressed to security – rather than integrative – measures, along with a fragmented legislative technique, failing to give a systemic response to the multifaceted issue. This paper aims at presenting Italy as a case study, to highlight how and why efforts towards a structured legal framework may fail.

1. Introduzione

The topic of de-radicalisation in Italy has been challenged inconsistently, being investigated through several different perspectives. It does not seem to be perceived as a self-standing phenomenon, and as in many other European systems, "de-radicalisation" is included within the broader umbrella category of counter-terrorism responses[1]. Yet, as will be

[1] As Sedgwick argues, the term itself is problematic, since it can be used with different meanings and impacts on at least three different contexts, such as the security context, the integration context, and the foreign policy context. Additionally, its use is rather recent, since: "The greatest increase in frequency of use of "radicalization" in the press was between 2005 and 2007, timing that strongly suggests that the term's current popularity derives from the emergence of "home-grown" terrorism in Western Europe, notably the London bombings in July 2005." Thus, the author suggests recognising its inherent relative nature: "the best solution for researchers is probably to abandon the idea that "radical" or "radicalization" are absolute concepts, and to recognize the essentially relative nature of the term 'radical'. M. Sedgwick, *The Concept of Radicalization as a Source of Confusion*, Terrorism and Political Violence, 22(4), 2010, pp. 479-480; 491. See also, J. Bartlett, C. Miller, *The Edge of Violence: Towards Telling the Difference Between Violent and Non-Violent Radicalization*, Terrorism and Political

highlighted, violent extremism, especially political, is a well-known issue in Italian history. On the one hand, it is no coincidence that all existing legislation is based on the criminal law apparatus dating back to the time when political terrorism was a phenomenon of main concern to policymakers, with ensuing interventions implemented to respond to precise emotional (political and) emergency waves. On the other hand, 'emergency' portrays the whole Italian *structure* in the field of de-radicalisation. In fact, as will be clarified, in Italy emergency appears to be a strategy sufficient per se and a well-established pattern, to the detriment of a systemic approach toward the topic. At the same time, however, some efforts have been made to draft ad hoc legislation, which has never been enacted due to other political agenda priorities. In this regard, even though with no substantive outcomes, the topic of de-radicalisation has also been the subject of debate in diverse fora, such as institutional roundtables and dedicated commissions. Nonetheless, in the latter, the focus has mainly been placed on jihadism[2] and violent religious extremism, thus giving rise to two main consequences. On the one hand, *political* extremism has not been (lately) considered as a threat worthy of intervention and attention; on the other hand, most of the proposals – both regulatory and in terms of policies – have addressed religion in general and Islam in particular, appearing to be biased and discriminatory to some degree. A third consequence is that this approach has affected the effectiveness of de-radicalisation strategies, leading to both the under-reporting and under-representation of other trends in radicalisation.

Despite the increasing interest (and concern) surrounding the topic, Italy lacks a solid agenda and strategies appear fragmented and largely based on a case-by-case approach. Moreover, the focus on emergency is also intertwined with the (legal) repressive pattern, whereby radicalisation phenomena are managed through criminal law tools, with prisons (and courts) also becoming a vehicle for counteractions. In this regard, however, Italy is not the only country which massively relies on prisons as far as de-

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Violence, 24 (1), 2012; D. Della Porta, *Radicalization: A Relational Perspective*, Annual Review of Political Science 21:1, 2018; A. P. Schmid, *Frameworks for conceptualizing terrorism*, Terrorism and Political Violence, 16(2), 2004. See also L. Vidino, J. Brandon, *Europe's experience in countering radicalisation: approaches and challenges*, Journal of Policing, Intelligence and Counter Terrorism, 7:2, 2012. In this regard, D. Rad WP4 *Comparative Report, De-radicalisation and Integration Legal and Policy Framework*, D4.2 findings dradproject.com/?publications=d4-2-comparative-report-de-radicalisation-and-integration-legal-and-policy-framework (considering legal frameworks tackling radicalisation per se and responses embedded in counterterrorist legal frameworks). From another perspective, see V. Federico, P. Pannia, *Time passes, narratives stay, or do they fade? Exploring traces of postcolonial representations in counter-radicalization laws in Europe*, March 27, 2023, D.Rad Blog, dradproject.com/time-passes-narratives-stay-or-do-they-fade/.

[2] Throughout the whole analysis, we assume 'jihadism' as a problematic term. However, given its appropriation by violent groups, as well as its shared meaning among scholars, experts, institutions, we will nonetheless rely on this concept. On this point, see M. Sedgwick, *Jihadism, Narrow and Wide: The Dangers of Loose Use of an Important Term*, Perspectives on Terrorism, vol. 9, n. 2, 2015. See, in addition, the complex picture investigated by P. Manduchi, N. Melis, *Ǧihād: definizioni e riletture di un termine abusato*, Milano, Mondadori Università, 2020.

radicalisation programmes or strategies are concerned[3]. In this case as well, religion seems to be at the core of the issue and perspectives related to de-radicalisation programmes deal once more with proselytism in counter-narratives and approaches, thus confirming the concern over jihadism (and religious extremism) also in tertiary prevention, namely when radicalisation processes or violent actions have already been successful.

In assessing the aforementioned issues, this paper will develop an analysis of the Italian context, in order to underscore its legal, political and institutional specificities (and contradictions); a description of the regulatory framework will follow, with a discussion of interventions and efforts concerning de-radicalisation strategies, which nonetheless remained at a 'formal level'. Additionally, the substantive role of courts in facing the legal (and policies) vacuum will be investigated. Finally, some conclusive remarks will attempt to address the current 'state of the art' in the Italian framework.

2. The Italian context: a history of (old and new) extremisms (and polarisations)

The picture of extremism in Italy is by no means a static one. It is shaped by complex dynamics among different actors, and its physiognomy has been changing over time, according to contingencies and depending on historical and political circumstances[4]. Italian history has been transversely characterised by several trends of political violence and terrorist organizations, as well as local separatism and independentism, with diverse ideologies and patterns of 'violence'. Additionally, even though criminal organisations, such as the Mafia, Cosa Nostra and 'Ndrangheta are an all too well-known part of Italian history, they naturally embody a dissimilar phenomenon. Nonetheless, their political relevance has to some extent affected current approaches, especially regarding the repressive legal pattern.

As for Italian 'violent extremism(s)', the political strand concerned right wing, leftist and anarchist terrorism; others related to particularistic regional and local movements, again with a more or less political pattern. They pertained to struggles against the 'central' national state and issues of linguistic and cultural minorities, as well as critiques of assimilationism. Also, geography has played a crucial role: on the one hand, for instance, islands such as Sicily or Sardinia have somehow suffered from a profound cleavage from the 'peninsula', not only at a 'geographical' level. On the other hand, the abovementioned elements have also become a leading theme in a sort of particularism-in-reverse narrative in many northern regions. In fact, the polarisation between an efficient and productive 'North' and a disadvantaged, 'parasitic' 'South' has been further reinforced. This 'us vs. them' dichotomy has indeed translated into a *leitmotiv* in some political movements and parties.

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[3] See D. Rad WP4 *Comparative Report, De-radicalisation and Integration Legal and Policy Framework*, D4.2 findings dradproject.com/?publications=d4-2-comparative-report-de-radicalisation-and-integration-legal-and-policy framework.

[4] See D. Della Porta, *Social Movements, Political Violence, and the State: A Comparative Analysis of Italy and Germany*, Cambridge, Cambridge University Press, 1995.

To be sure, forced migrations and 'asymmetric' multiculturalism throughout the national territory, as well as the increasing Muslim presence in the public arena have recently produced the most macroscopic polarisations within the civil society[5], giving rise to harsh public and political disputes. Thus, racist or Islamophobic speeches have not been uncommon, often becoming the core of populist movements and alt-right discourse, or of "State speech"[6]. In addition, polarising narratives have exponentially fostered other conflictual counternarratives, thus creating further (polarising) micro-dynamics as a result. Hence, the heightened social and cultural conflicts have engendered 'multiple polarisations', through (other) us v. them[7] rhetoric vis-à-vis foreigners, minorities, and under-represented or targeted groups.

In the current context, the political past of Italian history seems disregarded, in some cases also resulting in a sort of retrospective utopia, whenever the fascist regime era is recalled as a golden age. The consequences are twofold: some alt- and far-right propaganda is considered as a 'radical' political ideology, not a form of 'radicalisation' worthy of being monitored; there has been an underestimation of the cross-cutting nature of extremism[8], which indeed can be political, religious, or both, or merge other elements and ideologies or none of them, becoming a completely different (and new) way of expressing grievances or claims through a violent discourse. Moreover, different patterns of extremism can overlap, and to this extent the spectrum of 'alienation' and "stereotypical" marginalisation can prove rather reductive.

In this regard, some examples can attest to the abovementioned dynamics.

First, as is well known, the management of the COVID-19 pandemic has jeopardised 'ordinary' everyday life, especially in the off-line context and during the massive restrictions[9], when formerly concealed phenomena came to the surface.

For instance, in September 2021, eight no-vax activists were arrested since

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[5] Emblematic is the misleading narratives about migrants as jihadists, or in recent times, of being responsible for the spread of COVID-19, see www.amnesty.it/migranti-casi-dimportazione-e-covid-19-si-evitino-stigma-e-discriminazione/. The Italian 'Carta di Roma' association was specifically created to debunk this fake news: www.cartadiroma.org/. Its name evokes the document (Carta di Roma) "Ethics protocol for correct information on immigration issues", signed by the National Council of Journalists (CNOG) and by the National Federation of the Italian Press (FNSI) in June 2008, www.unhcr.org/it/risorse/carta-di-roma/.

[6] Both as hate speech promoted by the State itself with a 'high value', or speech chosen by the State to the detriment of freedom of expression. On this topic, see E. Stradella, *La libertà di espressione politico-simbolica e i suoi limiti: tra teorie e "prassi"*, Torino, Giappichelli, 2008.

[7] See, for instance, C. McCauley, S. Moskalenko, *Friction: How Conflict Radicalizes Them and Us*, Oxford, Oxford University Press, 2016.

[8] For a vision about radicalisation and extremism as the Doppelgänger and not as a 'pathological' functioning of society per se, see F. Antonelli, *Doppelgänger: estremismo e radicalizzazione violenta nella società sindemica. Un'introduzione*, Rivista trimestrale di scienza dell'amministrazione, 4/2021.

[9] For a focus on migration and conflictual narratives see A. Genova, E. Lello, *Radicalization and deradicalization in Italian migration political debate in the time of COVID-19 pandemic*, and B. Lucini, *Nuove forme di radicalizzazione religiosa e politica ai tempi della pandemia, ibidem*.

they were planning attacks on seats of government institutions during a manifestation against the COVID Green Certificate to be held in Rome in the same month. This was the ultimate result of an escalation of fake news, propaganda against a 'sanitary dictatorship', COVID negationist trends and threats addressed to politicians and physicians, through telegram channels and social media. This event suggested that there is no 'prototype' of extremist or "radicalised" and the people involved were far from belonging to 'marginalised' or 'minority' groups. Their anti-establishment narratives were not supported by any structured political ideology or 'subversive' programme. And yet, two of the eight persons arrested had previously engaged in independentist movements based in northern Italy, thus confirming the complexity 'extremisms' entail.

One more example can be provided. Quite recently, in October 2022 a man was arrested in Bari on charges of recruitment for the purpose of international terrorism, propaganda, and incitement to commit crimes on the ground of racial, ethnic, and religious discrimination. He was ready to act as a 'lone actor' in order to protect the 'white race' and was found to be in possession of materials inspired by propaganda about the Buffalo massacre in the United States, which occurred in May 2022, and the 2011 Norwegian attacks in Oslo and Utøya, as well as the racist-inspired assault that took place in Marche Region in 2018[10]. This brought white supremacist trends into the 'Italian extremism' picture, also unveiling its transnational character and links, at the same time breaking the "glass ceiling" surrounding the topic.

Finally, the case of 200 teenagers shooting a video clip for a song to be posted on media channels – precisely in San Siro and again during the restrictions due to the pandemic – is worth mentioning, since it ended up in urban guerrilla with the police. San Siro has always seen a strong 'Islamist' presence and the first counter-actions against jihadism in Italy took place in that district. In this case there was obviously nothing 'Islamic' involved, but mainstream narratives focused narrowly on "youth with a migration background", reiterating the link with 'alienation' or 'at-risk' situations, also evoking a (off-context) 'banlieu' paradigm or *lumpen-islamisme*[11] dynamics.

Notwithstanding this multifaceted setting, some extremist and radical trends remain largely overlooked and are not addressed as a threat to be *urgently* challenged.

3. The Italian legal framework: a history of lack of prevention, 'emergencies' …

As briefly explained, due to political and historical reasons, Italy has devoted specific attention to the repression of violent and extremist phenomena. The

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[10] In 2018, in Macerata, a young Italian man shot and severely injured six African persons, inspired by white supremacist propaganda and for xenophobic purposes. He was imbued with racist narratives stemming from far-right movements and wanted to protect the 'Italian race' as well as seek 'vengeance' for the murder of a young Italian girl, killed by a Nigerian man in January of the same year.

[11] See, O. Roy, *L'échec de l'Islam politique*, Paris, Seuil, 1992, also about 'lumpen intelligentsia'.

legislative framework has been built up on a criminal law apparatus designed to deal with internal political terrorism. Indeed, radicalisation and terrorism are not perceived as separate and different categories, though some proposals to draft a new legislative framework on this topic have been submitted in recent years. To date, however, they have never been fully discussed or approved by the Parliament.

The national framework consists of a plethora of provisions stemming from escalations in extremism and adopted as the *main response* to (and tool for dealing with) precise emotional waves and 'emergency' situations, strictly related to the concept of 'security', as the *main part* of the answer. Not surprisingly, the first legislative act dates back to 2001, issued with 'urgency' following the 9/11 attacks against the Twin Towers in Manhattan[12], in order to provide for measures to prevent and combat international terrorist crimes. Reforms were subsequently made following terrorist attacks in Europe. New criminal offences were also introduced, with specific provisions devoted to counteracting new phenomena, such as those of foreign fighters or so-called 'lone actors'. In particular, Law no. 43 of 2015 was enacted after the Paris attacks of the same year and was aimed at tackling so-called Islamic radicalism; it specifically prohibited leaving the country to support takfirist networks and at the same time provided for more stringent preventive (criminal law) measures. The pragmatic criminalization of financial support introduced by Law no. 153 of 2016 originated from the same perspective, the aim being to inhibit any form of sustenance to transnational and international organisations. Broadly, the provisions enacted during the last decade show a considerable lowering of criminal law thresholds and, from a complementary perspective, the lack of an *integrative* preventive approach renders the repressive framework the sole tool and strategy to be successfully implemented.

As Ferrajoli wrote in 2006[13], this legislative drafting technique is embedded in a 'political criminal law' attitude, or, to put it differently, a 'criminal law against the enemy', which abundantly relies on the vulnerability globally perceived after the terrorist incidents occurring in Europe (and beyond). Moreover, the enhancement of preventive measures restricting personal freedom has created, as observed by Colaianni, a hybrid framework, a sort of '*preventive* criminal law'[14], which can greatly jeopardise fundamental rights in an almost "pre-Orwellian" manner, where the mere 'psychological' element becomes crucial and sometimes sufficient in itself[15].

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[12] *Inter alia*, see A. Vedaschi, KL Scheppele (eds), *9/11 and the Rise of Global Anti-Terrorism Law, How the UN Security Council Rules the World*, Cambridge, Cambridge University Press, 2021. See also, C. Bottici, B. Challand, *Rethinking Political Myth, The Clash of Civilization as a Self-Fulfilling Prophecy*, European Journal of Social Theory, 9 (3), 2006.

[13] L. Ferrajoli, *Il «diritto penale del nemico» e la dissoluzione del diritto penale*, Quest. giust., 2006.

[14] N. Colaianni, (2019), *Sicurezza e prevenzione del terrorismo cosiddetto islamista: il disagio della libertà*, Stato, Chiese e Pluralismo Confessionale, 32.

[15] G. Marino, *Lo statuto del "terrorista": tra simbolo ed anticipazione*, in Terrorismo e sistema penale: realtà, prospettive, limiti, Diritto Penale Contemporaneo, 1, 2017, pp. 44-52; E. Mazzanti, *L'adesione ideologica al terrorismo islamista tra giustizia penale e diritto dell'immigrazione, ibidem*, pp. 26-45.

Thus, *emergency* is clearly intertwined with security, a concept that has drawn dramatically increased attention, especially since 'new threats' have come into the picture. Overemphasized also at a semantic level, security has massively affected legislation; it is used as an umbrella term in the drafting of laws and represents a cross-cutting issue that brings together parties with diverse political ideologies. It is no coincidence that there has been a massive use of law decrees, on the grounds of a *need* for *urgent* measures (*inter alia*, Pacchetti sicurezza, Misure di Sicurezza – Security Packages or Measures). This trend may also be seen at the regional level. Whilst few interventions strictly related to de-radicalisation can be found, and no reference is made to 'extremism', *security* again represents a common theme also at the sub-national level[16].

The repressive pattern is obviously also reflected in policies (or the lack thereof) and precludes a systemic preventive background. The triangulation with institutional actors confirms this outcome. When it comes to (de)radicalisation, the main actors are the Ministry of Justice, the Ministry of Defence and the members of the armed forces, with their special groups; the work of public security forces is supported by massive operations of intelligence agencies, which are major actors in the Italian counteraction strategy against terrorism.

Indeed, they confirm the Italian trend, namely the securitisation[17] of the issue and the choice to address de-radicalisation on a case-by-case basis. In this regard, evoking the spectre of 'emergency' serves as a tool and a methodology at the same time[18]: security and emergency thus become the

[16]For instance, the Lombardy region Law no. 24/2017.28 Article 1 declares that "in compliance with the constitutional principles established by Article 117 of the Constitution, the act is aimed at strengthening assistance to victims of terrorist acts and promoting training and research activities in order to understand and prevent phenomena and processes of violent radicalisation". The Friuli Venezia Giulia regional Law no. 11/2012, on the other hand, lays down "Rules for supporting the rights of the person and the full intellectual, psychological, and moral freedom of the individual" while establishing funding for plans for a "network of support against abuses and harassment in groups". Other regional interventions are worth mentioning, though they provide only general tools to deal with violence and hatred and lay down plans in support of victims suffering from violent actions. In these cases, no reference is made to categories such as "extremism", or "radicalisation", whereas "security" constitutes their common theme. *Inter alia*, in Emilia Romagna and Liguria (Law no. 24/2003 and Law no. 28/2004, respectively), regional provisions have been enacted regarding the promotion of an "integrated security system" and both stress the relevance of social inclusion as a preferential strategy for problematic areas. In Piedmont, Regional Law no. 23/2007 (enacted in 2009) also relates to regional policies on integrated security. Its main goals are to provide encouragement, training, and updating of specific expertise in the field of cultural mediation and social conflicts and help for victims of violence and crimes based on sexual orientation or racial discrimination. Regarding security, other regions (for example Campania, Calabria, and Sicily) have combined a focus on legality with the fight against organised crime.

[17] For instance, L. Mavelli, *Between Normalisation and Exception: The Securitisation of Islam and the Construction of the Secular Subject*, Millennium, 41(2), 2013, pp. 159–181. From a different perspective, see P. Annicchino, *Comprehensive Security and Religion: Moving Away from the Securitization* Zeitgeist *in the Digital Transition*, The Review of Faith & International Affairs, Vol. 20, 2022.

[18] Not surprisingly, the lack of a structured legal framework translates into 'uncertainty' about what radicalisation entails, how it affects individuals and

two *modular pillars* of the Italian strategy. On the one hand, they appear to be well *structured*, tightly interwoven approaches, posing an obstacle to the construction of a systemic framework for engaging with (de-)radicalisation per se; on the other hand, they appear to be modulable, since they can be adjusted and adapted to circumstances, contemporary challenges and new or unknown threats. Furthermore, they also seem able to expand or decrease according to conditions, situations, settings, and events, while still remaining unquestioned and well rooted.

Nonetheless, a security-oriented pattern strongly influenced by counterterrorism policies may prove to be insufficient in the absence of a structured (national?) strategy. Even though the parliamentary debate seems inert on the topic, this does not necessarily mean that the phenomenon is *unknown*. More simply and more likely, it is probably perceived as complex – as the multidisciplinary panels with experts testify – and seen more as a context-related "emergency", rather than a real priority. At the subnational level, the situation appears quite similar: broad regional autonomy often leads to extremely diversified local policies, making for a fuzzy picture. Additionally, at a first glance, it may seem that radicalisation is not deemed to be *different* from terrorism, that is to say, a self-sufficient and dissimilar phenomenon. However, this seems to be contradicted by the attempts to draft ad hoc legislation in order to tackle radicalisation per se, to be challenged using a *different* approach from that underlying the counter-terrorism agenda, as will be discussed in the next sections.

4. … and 'attempts'.

Notwithstanding the lack of institutional, official guidelines or specific policies, however, the phenomenon of radicalisation and potential viable solutions have been investigated to some extent in a number of different contexts and through *ad hoc* institutional sites with a multiagency approach, i.e. with the collaboration of public actors and institutional representatives, as well as experts and associations. Their most relevant outcomes in terms of the dissemination and circulation of their findings will be presented below. They can be seen as a starting point and have actually often been reported as the best coordinated efforts in the field so far: a study Commission on the phenomenon of radicalisation and jihadist extremism, hosted at the Presidency of the Council of Ministers in September 2016 "Towards an Italian approach to the prevention of radicalisation"[19], the Ministry of Justice Handbook on radicalisation, which references a comparative study on the topic,[20] a report of the Stati Generali dell'Esecuzione Penale[21], and an *ad hoc*

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communities, and whether (and to what extent) fundamental rights are involved (and can be hindered). This approach is quite similar in Italy as far as forced migrations are concerned. On this topic, see P. Pannia, *"Institutional uncertainty" as a technique of migration governance. A comparative legal perspective"*, DPCE online, 2020/4.

[19] www.ristretti.it/commenti/2017/gennaio/pdf2/commissione_vidino.pdf.

[20] "Austria – France – Germany Violent Radicalisation Recognition of the phenomenon by the involved professional groups", www.giustizia.it/giustizia/it/mg_1_12_1.page?contentId=SPS1143166&previsiousPage=mg_14_7.

[21] A permanent panel of experts, judges, and penitentiary officers had been hosted by

Commission on intolerance, xenophobia, racism and hate phenomena[22].

4.1 The Presidency of the Council of Ministers ad hoc Commission on jihadism

Made up of 19 experts from different disciplinary and professional areas – a sociologist, a political scientist, legal scholars, journalists, counter-terrorism operators – the Commission provided, seven years ago, some guidelines for a common action. Unsurprisingly, the first legislative draft on the topic was produced in the following year. Still today, the guidelines set out at the government level constitute a point of reference in terms of both radicalisation and de-radicalisation. The first data that emerges is the situation of jihadism in Italy: there is no common profile, no clear-cut prototype of the 'home-grown terrorist'. The peculiarity of the Italian situation has been duly underlined: Italian demographic characteristics and the well-established anti-terrorism system, which have prevented the formation of a 'massive recruitment network'. Therefore, two principal (and 'classic') places able to nurture radicalisation dynamics come back into the picture: the on-line context[23], i.e. the internet, and the off-line one, i.e. prisons[24], recalling the case of Anis Amri as paradigmatic[25].

The Commission underlined, based on the unanimous opinion of the experts, the inadequacy of an action based solely on repression, adding the widely shared view according to which harsh measures – such as arrests and expulsions – should be preceded by policies aimed at preventing radicalisation. Considering the state of the art of CVE programmes with a European and international background, the guiding principles that should shape Italian action are based on the three well-known levels of intervention. The macro one: through counter-narrative or alternative narrative measures, based on the equal attractiveness of messages that are the opposite of the jihadist message. The content of such narratives and their legitimacy

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the Ministry of Justice from May 2016 to April 2017, in order to discuss shortcomings and critical issues of the Italian penitentiary system – underlined several times by the EU as well – through thematic round tables, www.giustizia.it/giustizia/it/mg_2_19_1.page, www.giustizia.it/resources/cms/documents/sgep_tavolo7_relazione.pdf. See also a study conducted by The Higher Institute for Penitentiary Studies (Istituto Superiore di Studi Penitenziari – ISSP) of DAP (Department of Penitentiary Administration, Ministry of Justice, *La radicalizzazione del terrorismo islamico. Elementi per uno studio del fenomeno di proselitismo in carcere*, Quaderni ISSP, n. 9, 2012, www.giustizia.it/resources/cms/documents/radicalizzazione__del__terrorismo_isla mico.pdf.

[22] www.camera.it/leg17/1265.

[23] See, for instance, from a 'political' perspective, T. Gaudette, *The Role of the Internet in Facilitating Violent Extremism: Insights from Former Right-Wing Extremists*, Terrorism and Political Violence, 2020.

[24] See, A. Negri, *La radicalizzazione jihadista negli istituti di pena*, 14 Dicembre 2018, www.ispionline.it/it/pubblicazione/la-radicalizzazione-jihadista-negli-istituti-di-pena-21800.

[25] Anis Amri is the 'lone actor' who on the 19th of December 2016 carried out the attack against the Christmas market in Berlin. His "process" of radicalisation was traced back to his stay in Sicilian prisons.

and effectiveness in reaching the right destination are the fulcrum of a preventive plan. At the meso level, the Commission envisaged constructive engagement with communities and social segments with a "high potential risk" of radicalisation, whereas at the micro level, interventions should focus on individuals, tailoring *ad hoc* solutions, with a view both to disengagement[26] and de-radicalisation. Additionally, an Italian CVE strategy should involve a plurality of public and private actors, in a multi- and transdisciplinary system, encompassing, among other things, a coherent legislative approach, intelligence activity, criminal investigations, schools, social and health services, civil society, associations and Islamic communities. Other suggested principles are *transparency* and *territoriality*: as regards the former, it is necessary that all actors, especially public ones – despite the inevitable confidentiality constraints – should act transparently, making it clear what goals they intend to pursue and what strategy they intend to implement; as regards the latter, since radicalisation is a phenomenon that is highly influenced by local factors and varies greatly not only within the national sphere, but also at the regional level and from one city to another as well as from one district to another, CVE initiatives must necessarily take these variables into account, be context-sensitive, so that their content is formulated on the basis of on a concrete 'immersion' in the context. According to the Commission's conclusions, not all strategies can succeed and, looking at other European experiences, these strategies can become a way to achieve 'threat reduction' but never full 'threat elimination'. When one is seeking to find viable solutions to tackle so-called Islamic radicalism, however, participation in decision-making processes apt to affect (some specific) communities' lives and to have an impact on their actual involvement in the 'public space' should be taken carefully into consideration. In fact, controversies may well arise regarding the actual participation of Italian Islamic communities in framing legislative or policies interventions that directly affect them as individuals, as believers, or as *citizens.* As is well known, in fact, notwithstanding the huge presence of different Islamic communities in Italy[27], the mechanism of 'institutionalisation' of State-religion relationships (Article 8 of the Constitution), based on single-voiced 'interlocutors' raises more than one issue when dealing with an "acephalous Islam", as well as heightening "fierce competition among traditions that coexist within a very tight space"[28].

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[26] On this topic, see T. Bjørgo, *Dreams and disillusionment: engagement in and disengagement from militant extremist groups*, Crime, Law and Social Change, 55:4, 2011; T. Bjørgo, J. Horgan, *Leaving terrorism behind. Individual and collective disengagement*, London, Routledge, 2009; D. Froujke, M. Slootman, F. Buijs, J. Tillie, *Decline and disengagement. An analysis of processes of deradicalization*, Amsterdam: IMES Report Series, 2008; B. Tore, J. Horgan, *Leaving Terrorism Behind: Individual and Collective Disengagement*, Abingdon and New York, Routledge, 2009.

[27] Several Islamic associations, however, are involved in projects, programmes, and meetings, and also contribute to the drafting of action plans. Worth noting is the *Patto nazionale per un Islam italiano* (National Pact for an Italian Islam), an agreement concluded in 2017 between the Ministry of the Interior's Consiglio per le relazioni con l'Islam italiano (Council for Relations with Italian Islam) and representatives from many Islamic associations. Similar agreements have been formulated at the regional and subnational levels as well.

[28] Though it refers to the European context, see S. Silvestri (2010), *Public policies*

4.2 The Comparative Handbook on Radicalisation

This Handbook is explicitly referred to by the Ministry of Justice as a good reference source on formal categories and operational strategies, as it provides an overview of Austrian, German and French experiences in this area. It was drafted by an International Commission involving the abovementioned countries, with the support of the European Commission, General Directorate for Justice Freedom and Security, in the context of a violent radicalisation prevention and response programme. Since a comparative analysis is beyond our scope, we will briefly summarise its purposes. In particular, it mainly concerns prison backgrounds, the subject to which the greatest attention and energies are devoted. In addition to a description of the different 'alarm levels'[29], there is a specific section dedicated to indicators, where it is admitted, at the same time, that untrained prison staff have difficulty in adequately dealing with radicalisation dynamics. However – and correctly – the indicators are defined as 'symptomatic' and none of them can strictly prove that a radicalisation process has taken place. Basically, they consist in macro categories of actions and circumstances divided into sub-groups including: a) the practice of religion, b) the daily routine, c) personal location and private life, d) outward appearance, e) the type of communication with people inside and outside prisons, plus 'social' behaviour, f) interests and use of media, g) particular comments on political events, h) attitude towards the authorities, and i) other suspicious forms of behaviour. Obviously, this kind of structure leaves more than one question unanswered and it is *at least* problematic, since it relies on quite stereotypical (features and prison) dynamics, as well as personal qualities, which may well turn into a source of discrimination, essentialism and targeting[30].
Nevertheless, the Handbook describes some good practices as well, to be understood as 'recommendations' aimed at helping prison staff to better deal with the phenomenon complexity. These include: training, which should be constant and exhaustive, with an analysis of strategies, or advice on how to

towards Muslims and the institutionalization of 'Moderate Islam' in Europe Some critical reflections, in A. Triandafyllidou, (ed.) (2010), *Muslims in 21st Century Europe*, London: Routledge, pp. 45-58. See, also A. Pin, *The Legal Treatment of Muslim Minorities in Italy. Islam and the Neutral State*, London and New York, Routledge, 2016; A. Giorgi, P. Annicchino, *'Genuine' religions and their arena of legitimation in Italy – the role of the ECtHR*, Religion, State and Society, Vol. 45, 2017.

[29] Yellow, orange and red levels, followed by indications and solutions from the penitentiary administration side. For example: in the yellow level, there are signs of hostile attitudes, thus vigilance, surveillance, and persuasion actions are recommended and countermeasures include constructive dialogue. Orange level: rejection of rules and authority, so close surveillance and 'firm' decisions (warnings) are the recommended response, whilst the countermeasure is dissuasion. Red level: physical actions or recruitment activity, which requires immediate and incisive decisions on the part of the prison, administrative or judicial authorities; the countermeasure corresponds to repression.
[30] On this topic, see generally J. Monaghan, A. Molnar, *Radicalisation theories, policing practices, and "the future of terrorism?"*, Critical Studies on Terrorism, 9:3, 2016.

help in the case of specific vulnerabilities, by "providing for specialised personnel who can benefit from *ad hoc* training on how to handle issues related to extremism, for instance on symbolism and its implications". Thus, trained officers can disseminate their knowledge, becoming trainers or tutors on their own, in order to help their colleagues and become the first people they can turn to for advice. They can also support the prison management in the implementation of preventive measures, such as psychological follow-up or individual counselling. In addition, another suggestion concerns the 'centralisation' of support in particular cases, in order to make it more efficient, by launching a dedicated phone line for prison staff, which can also be used for communication in anonymised form, to seek answers from other prison facilities. Finally, a quite good practice consists in the selection of specific personnel, since prison authorities should "adopt adequate measures to raise awareness and improve prison staff's knowledge about linguistic, religious and cultural diversity". The Handbook also stresses the need for the formulation of individualised exit strategies aimed not only at disengagement, but also reintegration into society through programmes that also provide for interaction with a professional (health) care network in order to manage the transition phase.

4.3 Stati Generali dell'esecuzione penale, table n. 7 (Foreigners and Criminal Procedures)

This report was drafted in the context of a panel of experts, judges, and penitentiary officers, hosted by the Ministry of Justice from May 2016 to April 2017, in order to discuss shortcomings and critical issues of the Italian penitentiary system as a whole. The report thus relates to the prison environment, specifically focusing on the status of foreigners and providing some guidelines to be further developed in counter-radicalisation strategies. Firstly, it may be noted that specific emphasis is once again laid on (foreigners and) religion, particularly Islam, the imam's role, and freedom of religion. In this regard, the report shows that in most cases this function is performed by prisoners themselves and that it is essential to strengthen the task of cultural mediation in prisons. In fact, a decentralisation of authority and supervision functions can lead to degenerative dynamics. The role of the cultural mediator is of utmost importance and the law on the administration of prisons[31] contains specific provisions addressing the topic that will hopefully be taken into serious consideration.

Actually, the report suggests strategies already informally implemented by the DAP (Department of Penitentiary Administration), consisting in the intensification of training courses on proselytism and its potential radical twists, aimed at prison staff, Heads of Departments and prison administrators. The strategies include, for instance, encouraging prisoners to engage in counselling activities with educators and social workers, as well as with the professional specialists provided for by Article 80 of Law no. 354/75, such as, for instance, psychologists, psychiatrists, experts in clinical criminology, and transcultural therapists. The enhancement of education, schooling and professional courses is also duly underlined, as is the

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[31] Law n. 354/75 as amended by Law n. 70/2020.

involvement of society, i.e. volunteer assistants, cultural mediators and imams, with the aim of preventing charismatic leaders from rising to leadership positions. At a 'central' level, specific advice concerns the creation of permanent technical panels including members drawn from the local authorities, public health centres, associations, and Islamic communities and offering prisoners the opportunity to benefit from leaves and alternative measures through the creation of facilities, accommodation and support networks in collaboration between local authorities, non-profit organisations and the judiciary. The recommendations include creating models for de-radicalisation in prison with the support of the aforementioned actors. Once again, the focus is on a structured form of coordinated action, perhaps in the awareness that the kind of pervasive decentralisation of the Italian system can cause strong asymmetries within the national territory.

Finally, emphasis should be laid on the promotion of interactions and interventions in synergy with the consular authorities representing each foreigner, in the event of 'assisted voluntary returns' to the countries of origin. Worth noting, however, is the agreement concluded between the Union of Islamic Communities in Italy (UCOII) and the DAP[32] in order to allow the promotion of adequately trained imams, which can be regarded as a practice deserving in-depth discussion, also from a critical perspective. As has been pointed out, moreover, the allocation of detainees and so-called preliminary "triage" in prisons deserve greater attention, since at this early stage an individual assessment of the general background of prisoners takes place, involving different actors and expertise[33]. This point can and should become crucial, since the existing criteria seem excessively standardised and a more individualised approach should be adopted, also due to still persistent procedural caveats[34] (Article 14 of the Law on the penitentiary system[35] and Article 24 of the Regulation on the penitentiary system[36]). Indeed, it is not merely a matter of a bureaucratic procedure to be fulfilled, but rather of a precise choice that can strongly affect the prisoner's whole *cursus*, considering that there is no review of *that* choice as well[37].

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[32] This Protocol was drafted by the DAP (Department of Penitentiary Administration – Ministry of Justice) and UCOII (Union of Islamic Communities and Organizations in Italy) in November 2015. It consists of 7 programmatic articles, designed to establish cooperation between the DAP and the UCOII, given the high percentage of Muslim detainees in Italy, and to encourage the creation of 'accredited' cultural mediators and imams, whose functions would be not only to provide spiritual and moral support, but also to act as cooridnators and report cases of fragility or vulnerability worthy of specific attention. See ucoii.org/wp-content/uploads/2020/01/Protocollo-Intesa-DAP.pdf

[33] For a comprehensive analysis, see F. Delvecchio, *il Detenuto a rischio radicalizzazione e i rimedi della prevenzione terziaria: triage iniziale, scelta allocativa e ruolo degli operatori penitenziari*, Diritto Penale Contemporaneo, 6/2017, archiviodpc.dirittopenaleuomo.org/upload/9718-delvecchio617.pdf.

[34] *Ivi.*

[35] Law no. 354/1975, law on the penitentiary system and on the execution of liberty-restricting measures, amended by Law no. 70/2020.

[36] Decree of the President of the Republic no. 230/2000, regulation on the penitentiary system and liberty-restrictingmeasures.

[37] For a comprehensive analysis, see F. Delvecchio, *il Detenuto a rischio radicalizzazione e i rimedi della prevenzione terziaria: triage iniziale, scelta allocativa e ruolo degli operatori penitenziari*, cit., p.6.

4.4 The 'Jo Cox'[38] Parliamentary Commission on intolerance, xenophobia, racism and hate phenomena[39]

As may be apparent, hate speech and radicalisation are profoundly intertwined[40] as mutual endorsing dynamics. Their links and interactions can be – at least – twofold. First, discourse, narratives, and propaganda conveying hatred (on a gender, race, ethnic, religious basis *inter alia*) may well turn into radicalised (not just radical) opinions and ideas[41]. Second, the very same process through which polarisation, alienation, marginalisation, and stereotypical targeting reinforce each other may well strengthen and foster the vicious cycle of radicalisation per se.

In this regard, Italy lacks a clear definition of hate speech and of what it can entail[42]. Legislative interventions have been stratified over time and particularly regard some limits to the broader recognition of freedom of expression[43]. The Jo Cox Commission sought to raise awareness on this topic, with the aim of counteracting the increasing rate of hate speech, in both the on-line and off-line contexts.

Chaired by the Italian deputy and former President of the Chamber of Deputies, Laura Boldrini, and made up of ten deputies (one for each political group), the Commission hosted three representatives of the Council of Europe, one from ISTAT[44], a member of UNHCR, representatives of associations (Amnesty, Arci, Associazione 21 luglio, Carta di Roma, Cospe, Fidr, Human Rights Watch) and three experts. The Commission was set up in 2016, in order to investigate the 'dimension, cause and effects' of hate speech in Italy, through its definition provided by the European Commission against Racism and Intolerance (ECRI, Council of Europe)[45]. The final

[38] Jo Cox was a British Labour Party MP, murdered in Leeds in June 2016 by an activist of the far-right party 'Britain First'.

[39] www.camera.it/application/xmanager/projects/leg17/attachments/shadow_prima pagina/file_pdfs/000/007/099/Jo_Cox_Piramide_odio.pdf. The first session of the 'Extraordinary Commission to combat intolerance, racism, anti-Semitism and incitement to hatred and violence' was held on 15 April 2021, established in the Senate and chaired by Liliana Segre, a well-known Italian survivor of the Shoah and victim of incidents of verbal violence, insults and hate speech marked by antisemitism and holocaust denial, to which investigations for racial hatred followed, see www.senato.it/Leg18/26101?shadow_organo=1180143.

[40] Yet, they are different, as well as terrorist speech and hate speech. See K. Gelber, *Terrorist-Extremist Speech and Hate Speech: Understanding the Similarities and Differences*, Ethical Theory and Moral Practice 22:3, 2019.

[41] See, for instance: "La rappresentazione delle ideologie radicali come precursori naturali che inevitabilmente conducono all'azione violenta (Baran, 2005) è fuorviante e porta all'individuazione delle idee come minaccia e, conseguentemente, alla guerra alle idee", L. Ravagnani, C.A. Romano, *Radicalizzazione dei convertiti e possibili strategie di reinserimento*, Rassegna italiana di criminologia, 2/2022, p. 147.

[42] On the topic, A. Nocera, *Manifestazioni fasciste e apologia del fascismo tra attualità e nuove prospettive incriminatrici*, Diritto Penale Contemporaneo, 9 maggio 2018; M. Monti, *Libertà di espressione e hate speech razzista: un'analisi mediante le categorie di speakers*, 9 settembre 2015, www.dirittifondamentali.it.

[43] See E. Stradella, *Hate Speech in the Background of the Security Dilemma*, German Law Journal, Vol.09 No.01, 2008.

[44] ISTAT is the Italian National Institute of Statistics (Istituto nazionale di statistica).

[45] European Commission Against Racism and Intolerance, "hate speech is understood as any kind of communication in speech, writing or behaviour, that attacks or uses

report, approved after fourteen months of work, highlighted the so-called 'pyramid of hatred', according to an increasing level of intensity, severity, and offensiveness, from the base 4 to the top 1. Consisting of negative stereotypes, false or misleading representations, insults, and 'normalised hostile language', the first step of discrimination and hate speech gains strength, ranging respectively from discriminatory behaviour in the workplace or in social relations, up to the threat or incitement of violence against an individual or groups based on specific targeting characteristics. Standing at the top of the pyramid are hate crimes in the strict sense, described as physical violence or murder on the ground of belonging to certain groups or identities: from ethnicity to religion, from gender to sexual orientation[46]. The Commission also dealt with disability as a specific ground for hate speech due to ableism, additionally focusing on the increasing dynamics of hatred among children and including mention of the well-known phenomenon of bullying, in on-line and off-line contexts[47].

The Commission conducted extensive research work, drafted several documents, scientific articles and dossiers, gathered a huge amount of empirical data, collected via the support of advocacy and associations networks and drew up 56 recommendations[48]. The suggested prevention strategies resemble those devised in the face of the jihadist threat: first, the Commission highlighted the need to promote a national strategy, organised into specific actions and plans, especially aimed at minorities, such as the Roma communities, which often suffer from violent discrimination and a biased public narrative[49] (pt. 2); to draft legislative bills, including ones addressing citizenship and *ius soli*; to combat homolesbotransphobia by strengthening gender education in schools and civil society, as well as introducing other educational initiatives to nurture intercultural and inter-religious open-mindedness and counter intolerance and racism (pt. 12). Additionally, the Commission specifically recommended encouraging counternarratives, selectively supporting 'no hatred' campaigns and initiatives (including blogs and public engagement, pt. 13), establishing an

pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor", p. 2.

[46] The report underlined that, according to FRA (European Union Agency for Fundamental Rights), in 2016, Italy was the most homophobic country in the EU and the second most Islamophobic in Europe, according to a PEW survey of the same year.

[47] A Law was enacted the following year, L. no. 71/2017. Furthermore, on 14 October 2016, a Memorandum of Understanding was signed between the Chamber of Deputies and MIUR (Ministry of Education, University and Research), on internet rights and duties: www.camera.it/leg17/1131?shadow_comunicatostampa=10630.

[48] The full test can be found at: www.camera.it/application/xmanager/projects/leg17/attachments/uploadfile_comm issione_intolleranza/files/000/000/001/RELAZIONE_FINALE.pdf. For a brief report in English, see: www.camera.it/application/xmanager/projects/leg17/attachments/uploadfile_comm issione_intolleranza/files/000/000/004/Raccomandazioni_lug17_EN.pdf.

[49] On this topic see the national strategy for the inclusion of Roma, Sinti and Caminanti (2012-2020) adopted by the Bureau for the promotion of equal treatment and the removal of discrimination based on race or ethnic origin, UNAR (Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine etnica).

Ombudsman to monitor news and public information to assess their fairness and urging journalists associations to supervise professional ethics (pt. 15). Some of these relevant points were actually implemented in a draft bill – the "ddl Zan" – which precisely addressed all the critical issues underscored by the Jo Cox Commission, though (again) from a criminal law perspective[50]. It was blocked by the Italian Senate in October 2021, almost one year on from its first approval by the Chamber of Deputies. It aimed to protect against hate speech and discrimination on the ground of gender, sexual orientation, or disability, defined as specific offences to be added to the already existing provisions, but triggered a harsh public debate in Italy. Solutions designed to combat polarisation, violence and hate speech paradoxically fostered further clashes: part of the public opinion, as well as some political parties, expressed disagreement and rejection.

4.5 The Dambruoso-Manciulli draft bill

The first Italian bill on the topic (the Dambruoso-Manciulli bill) deserves (a separate) mention. Drafted in 2017, it was specifically devoted to radicalisation, and at the same time aimed to propose solutions regarding de-radicalisation strategies ("Provisions for the prevention of radicalisation and jihadist extremism"). The Dambruoso-Manciulli bill openly declared that a repressive approach could not be an adequate response and provided for preventive strategies, as well as counteraction policies and re-educational goals. Nonetheless, it was based on a "jihadist" extremism approach, which may appear partial, since the terms "radicalisation" or "extremism" could encompass many different phenomena besides jihadism. The draft envisages the creation of coordinated networks of counter-radicalisation centres at a regional level (CCR – Centri di coordinamento regionali sulla radicalizzazione, Regional Centres against Radicalisation and special commissions) and supervision at the national level (CRAD – Centro nazionale sulla radicalizzazione, National Centre on Radicalisation). Given the asymmetries existing throughout the national territory, the network set up through the CCR and CRAD represents a viable solution to this issue, which can also cover counteractions against any kind of extremism.

Moreover, the Dambruoso-Manciulli bill provided for information and awareness campaigns to be launched in public institutions, schools, and prisons, with a focus on counternarratives in order to support the macro-level strategies. However, in the bill, de-radicalisation is linked to the idea of rehabilitation, which is closely associated with criminal law concepts, imaginaries, or models and prevention essentially seems to have two guiding principles. First, the balance between secularism and the protection of freedom of religion, also as a strategy to address grievances of exclusion and to avert dynamics of polarisation or tendencies towards radical religious stances; second, the importance of interreligious and intercultural dialogue, which may represent a suitable tool in prevention plans – especially at the counter-narrative level – but should be strengthened or integrated with

[50] "Amendments to Articles 604-bis and 604-ter of the Criminal Code, on violence or discrimination on the grounds of sexual orientation or gender identity", C.569, documenti.camera.it/leg18/pdl/pdf/leg.18.pdl.camera.569.18PDL0012340.pdf.

other models, in disengagement and de-radicalisation processes. Once more, the emphasis on interreligious dialogue perhaps leaves some issues unanswered[51], such as those concerning democratic participation and inclusion, as well as social and political inequalities, which need to be addressed as part of an all-encompassing prevention strategy.

The Dambruoso-Manciulli bill was recently echoed by the "Fiano" bill[52], quite similar in its content. Approved by the Chamber of Deputies in May 2022, it was sent to the Senate for a second reading, which is still pending. The draft proposal, quite similar to the Manciulli bill in its main aspects, is aimed at "framing measures, interventions and programs to prevent radicalisation phenomena and the spread of violent extremism, especially of a jihadist nature, as well as to foster de-radicalisation and rehabilitation in terms of social, cultural integration, also in the workplace, of the individuals involved". In the attempt to shape a systemic and preventive approach targeting the phenomenon of religious "radicalisation" in particular, it reiterates the main link with religious extremism, failing to target other violent discourse, which may reveal to be a shortcoming in the long term.

5. Overcoming the legal vacuum: the role of courts in de-radicalisation

Due to the lack of a structured framework to rely upon, courts have provided effective and innovative responses, performing a remedial role vis-à-vis the Italian legislative vacuum on de-radicalisation. Thus, they have developed non-standardised criteria, deeming individual background, biographical elements, as well as heterogeneous radicalising "processes" to be essential aspects.

In this analysis, the judicial contribution will be highlighted, laying emphasis on the diversity in approaches related to de-radicalisation. In this regard, courts have become the locus in which to tailor and draw up programmes to deal with the complexity radicalisation entails through 'alternative' paradigms. Two introductory observations will be put forward: this implies that prevention has somehow failed in its aims, owing to the lack of strategies or their insufficiency; it confirms that the Italian system is focused on the 'pathological' phase, the last stage of radicalisation which has already produced an unlawful or illicit outcome. The latter observation is further corroborated by the aforementioned role played by institutional actors involved in security and public order, as well as the crucial function of prisons.

The examples provided hereinafter may well serve the purpose of offering insights into all the different layers of the analysis on radicalisation. On the one hand, they share a common ground and illustrate similar solutions in the area, which provide for *substantive* de-radicalisation programs; on the

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[51] See, R. Pirosa, *Radicalizzazione e pluralismo. Spunti per una concezione critica*, Sociologia del diritto, 2/2022.

[52] A.C. 243, "Provisions for the prevention of radicalisation and violent jihadist extremism", C.243. Emanuele Fiano also proposed adding Art. 293bis to the Criminal Code (Introduction of the offence of fascist and nazi-fascist propaganda), AC3343, www.camera.it/leg17/126?pdl=3343-A.

other hand, the methods diverge considerably, though they are all aimed at framing individualised de-radicalisation programmes.

In particular, the guiding principles appear quite the opposite regarding:

a) Method: Case 1) sets out a path aimed at disengagement through a religious-oriented counternarrative, while Case 2) presents a "constitutionally compliant"[53] solution within the secular spectrum and the "rule of law";

b) Personal background: Case 1) involves a foreign minor, Case 2) an adult Italian man.

c) Local area: Case 1) involves a court based in the north-east (Trieste), Case 2) a court based in southern Italy (Bari).

The first case law[54] concerns B.A., an Algerian boy who was just fourteen years old when placed under supervision by security officers. He came under investigation on suspicion of instigating terrorist actions (Article 414 Criminal Code) through the use of "virtual" means – an aggravating circumstance – due to a connection with the Islamic State via Telegram channels. Those who led the intelligence activities and C.A.S.A. investigations (*Comitato di Analisi Strategica Antiterrorismo*, Counterterrorism Strategic Analysis Committee) considered the sharing of jihadist propaganda, instructions for home-made weapons, and logistic support for the jihadist cause a well-founded terrorist threat and not just radical ideas coming from a young boy. In this case we find all the "traditional" elements of the mainstream narrative: an introverted foreign boy, the Islamic State's appealing propaganda, and the plan to become a lone actor in an attack against a school. Due to B.A.'s personal situation, during the preliminary judiciary investigations it was decided to directly assign the case to the juvenile social services and to devise a precise programme for his "rehabilitation" and social reintegration.

The case is interesting, since the juvenile court implemented a quite effective multi-agency approach: the programme content was formulated with the guidance of the juvenile social services, in collaboration with psychologists, with an institutional and public-oriented vision of the whole framework, as well as the involvement of institutions and civil society actors. A holistic approach bringing together different professional skills, each as a part of the overall solution to address the individual critical aspects and all the elements concerned in the particular situation. Hence, in addition to the psychological support provided to the boy, a "spiritual" guide was also designated to address his lack of empathy and the absence of emotions towards the consequences of actions such as the one he was planning. Also, there was (dis)engagement in discussing about Islam and theology, learning to detect the abuse of the teachings of Islam perpetrated by violent groups, and countering the mystification provided by takfirist narratives. This is undoubtedly the most interesting part, which also marks the main difference from Case 2), because of the choice of a religion-oriented approach, albeit of

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[53] This clear and paradigmatic definition is attributable to L.S. Martucci, *Radicalizzati jihadisti: profilazione e deradicalizzazione Constitution-compliant*, Stato, Chiese e Pluralismo Confessionale, 8, 2019.

[54] See C. Caparesi, L. Tamborini, *Una metodologia innovativa per la deradicalizzazione nel processo penale minorile l'esperienza di Trieste*, Gnosis, Rivista Italiana di Intelligence, 2019.

a hybrid or mixed kind, owing to the presence of an appointed mentor and a phycological counsellor as well. Aware of the insufficiency of a partial vision, the court, through the measures ordered, managed to achieve effective and substantial inclusion via equal participation in civil society. The boy was kept off-line all the time and made to engage in activities for the benefit of disabled people and survivors of violence – people with quite different social and cultural backgrounds[55]. The aim was to ensure that he had active and concrete experience and inter-action with intercultural dynamics in everyday life, rather than to implement a simple disengagement action. This can definitively be deemed as a strategy worthy of notice, owing both to its careful attention towards the individual and the "biographical" elements that can often make a difference, also in strengthening more "radical" attitudes[56], and to the solution, via empirical tools, of aspects exacerbated by a problematic background. Quite important, in addition, is the close, carefully focused supervision, and constant work coordinated by the juvenile court, in which the role of intelligence was just a small part of the action. That is to say, "security" was just a part of the response and not the only answer per se. Moreover, the proactive solution provided by an Italian court prevented the conviction of a young boy and enabled his concrete interaction with, rather than mere integration into, the very same 'society' he wanted to fight, creating new bonds of mutuality and social commitments. At the end of the programme, which lasted until May 2020, the judge ruled that the offence was extinct.

Case 2)[57] appears quite different, and may be seen in the light of the legislative framework of criminal preventive measures against "socially dangerous" individuals.

This case pertained to an Italian man placed under "special" surveillance, after an investigation conducted by DIGOS (*Divisione Investigazioni Generali e Operazioni Speciali*, General Investigations and Special Operations Division), for suspected international terrorism and apology of terrorism. In Case 2), we again find "indoctrination" via on-line propaganda, thus confirming the well-known role this virtual context can play. However, another element was noted as highly significant: the conversion to Islam[58]. While this should be deemed irrelevant in itself, it was indeed considered as the main factor underlying a harsh critique of the Italian state and its institutions. Hence, a sort of "tailor-made" rehabilitation programme was put together by the General Prosecutor. Once again, a multi-agency

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[55] *Ivi.*

[56] See, for instance, A. Orsini, *L'Isis in Europa. Un'analisi comparata delle stragi jihadiste*, Rivista di Politica, 2017, p. 157-17; *ll processo di radicalizzazione dei terroristi di vocazione*, Rivista di Politica, 2017, p. 163-173; S. Dambruoso, F. Caringella, *Jihad. La risposta italiana al terrorismo: le sanzioni e le inchieste giudiziarie. Con storie di «foreign fighters» in Italia*, Roma, Dike, 2018.

[57] Tribunale di Bari, Decree no. 71/2017. On this topic, see V. Valente, *Misure di prevenzione e de-radicalizzazione religiosa alla prova della laicità (a margine di taluni provvedimenti del Tribunale di Bari)*, Stato, Chiese e Pluralismo Confessionale, 37/2017; L.S. Martucci, *Laicità e diritti nei programmi di deradicalizzazione dal terrorismo religioso*, Dirittifondamentali.it, 2/2018.

[58] For a critical overview, see L. Ravagnani, C.A. Romano, *Radicalizzazione dei convertiti e possibili strategie di reinserimento*, cit.

approach was chosen, but with a social, cultural, and "constitutional" design and a secular-oriented counternarrative[59]. The General Prosecutor of Bari himself – as authorised by the judge of preliminary investigation – tailored its content taking into account the specific features of the situation, in collaboration with the University of Bari, which drew up all the guidelines regarding the de-radicalisation process, and with the support of a mediator rather than a religious mentor. Indeed, a mediator was considered more suitable in a secular legal framework, since a programme based on dissertations about Islamic theology would have paradoxically resulted in a violation of the freedom of religion[60], due to an "authoritative version" of Islam selected by public institutions. This "rule of law-oriented" approach was considered more consistent with the secular nature of the Italian system; in balancing all the fundamental principles at stake "religion" was left out of the picture. Thus, the case of the Tribunal of Bari appears to be rather an exception within the general Italian practice, since it emphasises "other" elements in certain unlawful behaviours, commonly (and opportunistically) linked to a static concept of "religion". Therefore, "civil constitutional ethics based on rights, aimed at establishing a just and democratic society"[61] was chosen as a guiding principle. This approach may embody a fair and effective strategy regardless of the kind of extremism, adapting to the different circumstances and adjusting the responses according to the different facets. The Court of Bari rejected quite a strong set of prejudices and biases. Not only did this strategy undermine the notions of religion/foreigner, foreigner/terrorist, and disengagement as the sole means of detachment from "religion" equations, but by overcoming several stereotypes it provided effective and individualised responses within a context of pluralism and respect for fundamental rights. Thus, achieving a fair, proportional, and non-discriminatory balance between them.

6. Conclusive remarks: can emergency be a (sustainable long-term) strategy per se?

The Italian approach in shaping de-radicalisation responses is undoubtedly still under construction. The tendency to reshape the existing criminal law framework to face new challenges has led to a fragmented picture. The political pattern in extremisms is almost neglected while the role of religion seems overemphasised. However, extremist trends may follow multiple dynamics and involve ever-changing geographies.
As has been shown, the repressive pattern in the Italian approach has led to the underestimation of prevention[62] as a win-win strategy to counter all

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[59] L.S. Martucci, *Laicità e diritti nei programmi di deradicalizzazione dal terrorismo religioso*, cit., p.11.

[60] This was also a crucial point in the court decision and as additionally argued by Martucci: "The radicalised, while representing 'the enemy', the terrorist, in the collective imagination, is also entitled to inviolable fundamental rights, represented more specifically by those rights and freedoms (such as, precisely, the non-coercibility of conscience) which, in constitutional democracies, operate as a limit to security concerns in emergency situations," ivi, p. 10.

[61] *Ivi*, p.11.

[62] DB Subedi, *Early Warning and Response for Preventing Radicalization and Violent*

types of polarisations, violent ideologies or grievances, which may well foster further violence. We are in no way suggesting the need for a homogeneity of responses, but rather advocate a basic common (coordinated) approach which can mitigate asymmetries, both in terms of actions and procedures, also taking into account Italian decentralisation[63].

Indeed, proposals, efforts and draft legislation addressing the topic of de-radicalisation suggest that the issue is not *that* underrated in the political agenda. This may additionally imply that the notion of *emergency* has paradoxically become a structured basis on its own, rendering the case-by-case approach a sufficiently tested strategy. But, perhaps, not a comprehensive one. Despite the awareness of radicalisation as a complex phenomenon, the actual challenge is to devise a general legislative framework that is broad enough to enable counteractions against all forms of violent extremisms, while at the same time ensuring space for local, social, and individual specificities. In fact, a 'one size fits all' approach may prove equally unsuccessful, as it seeks to create a 'standard' that can hardly accommodate *all* the different contexts.

Finally, considering the role of courts, they have undoubtedly provided interesting and proactive solutions, also at the level of local jurisdictions, while implying, however, the possibility that each forum can choose its own 'parameters'. This seems quite inevitable, since the judicial response *must* necessarily be different and based on an evaluation of the circumstances and features of each case. The pathological aspect, however, is grounded on the fact that good models of action come (once again) from jurisprudence, which leads us to wonder whether a predominantly *remedial* approach can be sustainable in the long term. Similar considerations apply for the prison context, in which stronger emphasis should be laid on an individualised approach. Merely promoting freedom of religion may be insufficient on its own to deal with issues of disengagement and for the purpose of designing effective de-radicalisation programs without including any *political* analysis of issues such as inequalities or structural discriminations as the other side of the coin.

A case-by-case approach, at both the judicial and penitentiary levels, is fruitful to some extent, since it has at least led to a pragmatic system of collaboration and coordination among academics, public institutions, and civil society. However, they remain 'penumbra' experiences and they cannot serve to define 'strategies' in a technical sense, though they can surely be seen as best practices worthy of dissemination.

Thus, legislative choices relying on notions of 'emergency' and security, and the stratification of different kinds of regulations at all levels, fail to address the systemic nature of the issue of radicalisation, which is not perceived in all its facets, often revealing the shortcomings of a fragmented legislative approach.

All actors involved in de-radicalisation need a legal basis in order to *act*. The existing legislative vacuum arouses issues of responsibility and therefore

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Extremism, A Journal of Social Justice, 29 (2), 2017.

[63] On the topic, see A. Antinori, *"Lessons learned" dei processi di de-radicalizzazione, riabilitazione e reinserimento sociale adottati in altri contesti internazionali per poter elaborare proposte funzionali alle Istituzioni italiane*, La Comunità Internazionale, 1/2021.

also of *accountability*, for civil society, stakeholders, and public institutions.

Giovanna Spanò
Università degli Studi di Pisa
giovanna.spano@jus.unipi.it