



Ecclesiastical Properties as Common Goods

A Challenge for The Cultural, Social and Economic Development of Local Communities

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Abstract

According to recent studies, there are about 600,000 places of worship and several thousand monasteries and convents in Europe. The process of secularization, the decrease and displacement of the population, and the reduction of vocations to the sacred life can be held responsible for the redundancy of the assets of the Catholic Church. These buildings represent an impressive heritage of faith, work and creativity of the communities who built them over the centuries. Most of them are considered “cultural heritage” by the legislation of the European States, because of their historical, cultural, and artistic values. Until now, the main solution to this phenomenon consisted in the alienation of these properties either to municipalities or private investors, sometimes for new uses of general interest, sometimes as residential buildings, or commercial activities. However, selling and disposing of these goods by ecclesiastical bodies cannot always be the only and preferable solution. Drawing from the analysis of some case studies of disused churches, convents and monasteries in Italy, this paper aims to investigate the role of civil society participation in the regeneration process and the possibility of applying “collaboration pacts” for the management of “common goods”, in spite of their legal status (public or private ownership). In light of the European scope of the phenomenon, this article provides a comparison based on the legal instrument of “strategic plans”, drawn up by the diocesan bishop and local authorities in Flanders (Belgium). This article aims to show that the adaptive reuse of ecclesiastical properties can be approached in an innovative way by using the theory of the commons and related legal solutions. This could be a great opportunity for the cultural, social and economic development of cities and villages, all the more so if the whole civil society is involved in the decision of the new functions and subsequent management.

Résumé

Environ 600 000 lieux de culte et plusieurs milliers de monastères et de couvents existent en Europe, selon des études récentes. Le processus de sécularisation, la diminution et le déplacement de la population, la réduction des vocations à la vie sacrée peuvent être considérés comme responsables de la redondance des biens de l'Église catholique. Ces bâtiments représentent un héritage impressionnant de foi, de travail et de créativité pour les communautés qui les ont construits au

cours des siècles. La plupart d'entre eux sont considérés comme un « patrimoine culturel » par la législation des États européens, en raison de leurs valeurs historiques, culturelles et artistiques. Jusqu'à présent, la principale solution à ce phénomène a consisté en l'aliénation de ces biens soit à des municipalités, soit à des investisseurs privés, tantôt pour de nouvelles utilisations d'intérêt général, tantôt comme habitations civiles ou activités commerciales. Cependant, la vente et l'aliénation de ces biens par les organismes ecclésiastiques ne peuvent pas toujours être la seule et meilleure solution. En s'appuyant sur l'analyse de quelques études de cas concernant des églises, des couvents et des monastères désaffectés en Italie, cet article vise à étudier le rôle de la participation de la société civile dans le processus de régénération et la possibilité d'appliquer des « pactes de collaboration » pour la gestion des « biens communs », malgré leur statut juridique (propriété publique ou privée). Compte tenu de la portée européenne du phénomène, l'article proposera une comparaison avec l'instrument juridique des « plans stratégiques », élaborés par l'évêque diocésain et les autorités locales en Flandre (Belgique). L'objectif est de montrer que la réutilisation adaptative des propriétés ecclésiastiques peut être abordée de manière innovante selon la théorie des biens communs et les solutions juridiques associées. Cela pourrait être une grande opportunité pour le développement culturel, social et économique des villes et des villages, d'autant plus si l'ensemble de la société civile est impliquée dans les décisions concernant les nouvelles fonctions et dans les choix de gestion qui en découleront.

Sommario

Secondo alcuni recenti studi, circa 600.000 luoghi di culto e diverse migliaia di monasteri e conventi esistono in Europa. Il processo di secolarizzazione, la diminuzione e lo spostamento della popolazione, la riduzione delle vocazioni alla vita consacrata possono essere ritenuti responsabili della ridondanza dei beni della Chiesa cattolica. Questi edifici rappresentano un impressionante patrimonio di fede, lavoro e creatività da parte delle comunità che li hanno realizzati nel corso dei secoli. La maggior parte di questi beni sono considerati come "patrimonio culturale" dalla legislazione degli Stati europei, a causa dei loro valori storici, culturali e artistici. Fino ad oggi, la principale soluzione a questo fenomeno è consistita nell'alienazione di queste proprietà ai comuni o ad investitori privati, a volte per nuovi usi di interesse generale, a volte come civili abitazioni o attività commerciali. Tuttavia, la

vendita e la dismissione di questi beni da parte degli enti ecclesiastici non può essere sempre l'unica e preferibile soluzione. Partendo dall'analisi di alcuni casi studio riguardanti chiese, conventi e monasteri dismessi in Italia, il presente lavoro si propone di indagare il ruolo della partecipazione della società civile nel processo di rigenerazione di questi beni e la possibilità di applicare loro i "patti di cooperazione" per la gestione dei "beni comuni", a dispetto del loro status giuridico (proprietà pubblica o privata). Alla luce della portata europea del fenomeno, l'articolo proporrà un confronto con lo strumento giuridico dei "piani strategici", elaborati dal vescovo diocesano e dalle autorità locali nelle Fiandre (Belgio). Lo scopo di questo contributo è di mostrare che il riuso adattivo dei beni ecclesiastici può essere affrontato in modo innovativo con la teoria dei beni comuni e con le relative soluzioni giuridiche. Questa potrebbe essere una grande opportunità per lo sviluppo culturale, sociale ed economico delle città e dei villaggi, a maggior ragione se tutta la società civile sarà coinvolta nell'individuazione delle nuove funzioni e nella successiva gestione.

Keywords: Religion, Collaboration, Self-management, Italy, Belgium, Commons, Public space, Urban space, Community, Private/public

Mot-clés : Biens ecclésiastiques, Biens communs, Pactes de collaboration, Gestion, Réutilisation adaptative, Italie, Belgique

Parole chiave: Spazio pubblico, Beni comuni, Usi civici, Italia, Pubblico/privato

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Ecclesiastical Properties as Common Goods

Davide Dimodugno

Introduction

This paper aims to investigate the possibility of fitting ecclesiastical properties, and the cultural heritage of the Catholic Church in general, into the recently defined category of “common goods”. This solution intends to promote the active participation of local communities in the requalification and regeneration processes of these goods, with benefits for all the actors concerned.

My research was initiated by the fact that places of worship, monasteries and convents are increasingly becoming redundant all across Europe (Coomans 2012; Sauvé and Coomans 2014; Noppen, Coomans, and Druin 2015). This problem should be considered in the context of the ongoing processes of secularisation of modern Western societies (Dobbelaere 2002; Martin 2005; Garelli 2020), population decline, and migration of people from rural villages to metropolitan areas.

This issue is not limited to the Catholic Church but affects the whole of society. These goods are an integral part of the European cultural heritage: the belltowers distinguish the skyline of villages; churches maintain a central position in the urban fabric of cities; monasteries and convents have played a fundamental role in the development of every field of knowledge and have assisted destitute people for centuries. Time has come to imagine a new future for this heritage that cannot be left in indifference and abandonment. A way to tackle this phenomenon could be precisely the “common goods” approach.

According to authoritative studies, churches have been considered common goods for centuries: places where everyone could find asylum and enter with

dignity (Mattei 2011, 27). Today these buildings still play a special role in Western cities, towns and villages: they contribute to shaping the landscape and can be considered as “places evocative of a belonging”, which refers not only to the community of believers but also to the entire society. This view does not contradict the Church’s vision; on the contrary, it is fully consistent with its doctrine.

This article investigates whether the legal instruments used in praxis, mainly for the regeneration and the management of ecclesial heritage retained by public bodies, could also be applied to ecclesiastical properties.



Figure 1: Former Saint George in Poggiale’s Church–Now Art Library

The Temporal Goods of The Church and The Principle of Subsidiarity

Firstly, it is important to identify the aim of this paper, making a distinction between “ecclesiastical” and “ecclesial” goods. According to the code of canon law¹, a good can be considered “ecclesiastical” only if it belongs to the universal Church, the Apostolic See or other public juridic persons in the Church². In a broader sense, the “ecclesial” quality of a good may refer to anything considered a testimony of Catholic culture and identity, despite its ownership (Azzimonti 2001, 36–37; Dimodugno 2018, 223). For example, in Italy, a church can be a public good (i.e., owned by the municipality), an ecclesiastical good (i.e., a parish church, owned by the parish itself) or a private one (i.e., owned by a physical or a private juridic person).

The peculiarity of the temporal goods of the Church consists in their finalisation, serving three specific purposes: worship, support of the clergy and charity, especially toward the needy³. It thus means that, if worship declines, the ecclesiastical authorities can reuse these goods to cope with the poverty of our times, not only consisting in the lack of money, but also in a lack of culture and relationships.

Secondly, the principle of subsidiarity, introduced into the Italian constitution in 2001 as a legal basis to justify the participation of citizens in the public administration⁴, has been affirmed by the social doctrine of the Church since the magisterium of Pope Leo XIII and Pope Pius XI, with specific reference

¹Book V of the code of canon law (cann. 1254-1310) is dedicated to “The temporal goods of the Church”.

²Cann. 1257: - §1. All temporal goods which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church are ecclesiastical goods and are governed by the following canons and their own statutes. - §2. The temporal goods of a private juridic person are governed by its own statutes but not by these canons unless other provision is expressly made.

³Cann. 1254: - §1. To pursue its proper purposes, the Catholic Church by innate right is able to acquire, retain, administer, and alienate temporal goods independently from civil power. - §2. The proper purposes are principally: to order divine worship, to care for the decent support of the clergy and other ministers, and to exercise works of the sacred apostolate and of charity, especially toward the needy.

⁴Art. 118, par. 4 of the Italian Constitution states: “State, Regions, Metropolitan Cities, Provinces and Municipalities favour the autonomous initiative of individual and associated citizens to carry out activities of general interest, on the basis of the principle of subsidiarity.”

to the associations of workers and their important role played for the whole of society (Leo XIII 1891, sec. 39; Pius XI 1931, secs. 29-38, 80-81).

More recently, Pope John Paul II stated that: “Malfunctions and defects in the Social Assistance State are the result of an inadequate understanding of the tasks proper to the State. Here again, the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but it should rather support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.” (1991, sec. 48) Through this strong assertion, not only does the Catholic Church recognise this principle within its own organisation, but it also affirms its aim of spreading it within different States. It is therefore possible to argue that the idea of involving the community in the reuse of ecclesiastical heritage is perfectly coherent with the doctrine of the Church, which intends to enhance the spontaneous birth of associations of active believers and citizens, who can cooperate all together “for the promotion of mankind and the good of the country⁵”.

Furthermore, the Church is well aware of the concept of the social function of private property, which was linked to the “*common destination of earthly goods*⁶” during the Second Vatican Council.

Lastly, in the Apostolic Exhortation *Evangelii Gaudium* Pope Francis underlines the prevalence of time over space (“time is greater than space”). It follows that “initiating processes [is more important] than possessing spaces” (Francis 2013, sec. 223). Practically, the Catholic Church should open its arms (and its properties) to a wider community, going along with the needs emerging from the people and supporting from below initiatives.

All these elements constitute clear evidence that the theory of common goods and the constant teachings of the Church are fully compatible.

⁵This expression quotes art. 1 of the “Villa Madama Agreement”, a new concordat signed between Italy and Holy See on February 18, 1984.

⁶Paul VI, *Gaudium et spes, Pastoral Constitution on the Church in The Modern World*: “By its very nature private property has a social quality which is based on the law of the common destination of earthly goods.” (1965, sec. 70)

The Notion of Common Goods in Italy

In Italy, the debate about commons is mainly due to the “Rodotà Commission”, appointed by the government in 2007 to draft a law concerning the modification of Heading II, Title I, Book III of the civil code, related to public goods⁷. According to this proposal, which has not come into effect yet, commons are defined as “goods that express functional benefits for the exercise of fundamental rights and the free development of the individual” and that “must be protected and safeguarded by the legal system for the benefit of future generations”. In the following exemplification, “archaeological, cultural, environmental goods and other protected landscape areas” were included among others.

The specificity of commons inheres to the fact they are considered as such by the community, despite their legal ownership, which can be public or private, and thus, also ecclesiastical. The attention is focused more on their use and on the participatory and inclusive processes for the management of these goods than on their legal status. This theorisation intends to implement the social function of property, recognised by art. 42 of the Italian Constitution⁸.

A special place within this wide category is taken by cultural heritage, because of its identity character and landscape values, related to the development of Italian culture (art. 9 Italian Constitution). Consequently, both ecclesiastical and ecclesial goods can fall under this notion of commons, because of their cultural and social values. Indeed, religion, or at least its history, represents a strong element in the creation of the cultural environment of a community. In the case of the Catholic Church, it is possible to observe a strong and mutual influence with the social context in which it operates (the so-called “inculturation”). In fact, it is no coincidence that “cult” and “culture” share the same root in their Latin origin⁹. Therefore,

⁷This draft law has never been approved by the Italian Parliament. Nevertheless, its content was transfused into the draft law of popular initiative, published in the Italian Official Journal of December 19, 2018, no. 294.

⁸Art. 42 of the Italian Constitution states that: “Ownership is public or private. Economic goods belong to the State, to bodies or to private individuals. Private property is recognised and guaranteed by law, which determines the ways in which it may be acquired, enjoyed and its limits, with the aim of ensuring its social function and making it accessible to all [...]”

⁹Both the terms “*cultūs*” and “*cultūra*” derive from the verb *cōlo, cōlis, colui, cultum, cōlĕre*, that means “to cultivate”.

the juridical category of commons has been appreciated by some scholars in relation to both the principle of subsidiarity in the Italian Constitution and to the magisterium of the Church, reconnecting it to the principle of dignity of human beings (Amato 2014).

Also Pope Francis, in his Apostolic Exhortation *Evangelii Gaudium* (2013, no. 189), refers to the importance of the value of solidarity and recognises the social function of property and the universal destination of goods as prior to private property, wishing for “structural transformations” that can materialise them even today¹⁰. Similar statements are presented in later pontifical documents (Francis 2015, sec. 93; 2020, secs. 118–120).

In conclusion, this recent juridical taxonomy can be considered not only compatible with the vision and the spiritual purposes of the Church (the salvation of souls), but it can also recall its primitive organisation, where “everything [...] was held in common¹¹”.

Some Practical Cases of Ecclesiastical Heritage as Common Goods in Italy

Even before and beyond the theorisation of places of worship as common goods, some cases have been found in practice in Italy. There are about 100,000 places of worship in Italy¹², and more than 600,000 in Europe (Coomans and Grootswagers 2019, 160). According to several studies,

¹⁰Francis, Apostolic Exhortation *Evangelii Gaudium*, November 24, 2013, no. 189: “Solidarity is a spontaneous reaction by those who recognise that the social function of property and the universal destination of goods are realities which come before private property. The private ownership of goods is justified by the need to protect and increase them, so that they can better serve the common good; for this reason, solidarity must be lived as the decision to restore to the poor what belongs to them. These convictions and habits of solidarity, when they are put into practice, open the way to other structural transformations and make them possible.”

¹¹Acts 4:32 “The whole group of believers was united, heart and soul; no one claimed private ownership of any possessions, as everything they owned was held in common”.

¹²Piergiorgio Colombo, Giancarlo Santi, “I beni culturali ecclesiastici in Italia” (1990, 651–52); Giancarlo Santi, “Conservazione, tutela e valorizzazione degli edifici di culto” (1995, 66). They estimate 95,000 Catholic churches in Italy, of which 30,000 are parish churches and 65,000 subsidiary churches. On the property front, 91,600 would belong to about 26,000 ecclesiastical bodies (parishes and religious institutes), while 2,100 would belong to public bodies. At the moment, the website BeWeb has surveyed more than 66.000 places of worship owned by ecclesiastical bodies of the “hierarchical Church” (mainly

nearly 70% of the whole cultural heritage in Italy is related to the Catholic Church¹³. For the purpose of this paper, I refer principally to a series of case studies located in the Diocese of Turin. This Diocese is quite extensive and it is set in the northwest of Italy¹⁴; it covers a population of 2,001,090 inhabitants, 1,992,790 of which are baptised¹⁵ (Segreteria di Stato Vaticano 2020, 740). In forty years, between 1978 and 2019, 98 decrees *de profanando* have been issued by the bishop¹⁶, concerning 47 churches, 38 oratories and 13 chapels. This means the reduction of places of worship to profane use is not a new phenomenon, even if it is possible to notice peaks of cases in 1990 and 2008. A total of 39 out of 98 buildings have been formally declared as cultural heritage by an express measure, and 22 more can be presumed to be such, making a total of 62%.

The significant number of dismissed oratories—which are places of worship of religious communities—reveals that a wide number of religious houses have been closed: these are the most fragile assets. The communities of consecrated life are losing members, therefore the only solution often seems to be the alienation of these buildings to real estate speculators, who may trans-

Dioceses and Parishes) but this amount doesn't count the places of worship belonging to institutes of consecrated life.

¹³According to Nicola Assini and Giovanni Cordini, *I beni culturali e paesaggistici: diritto interno, comunitario, comparato e internazionale* (2006, 79): “the Catholic Church in Italy, in its different expressions, dioceses, parishes, sanctuaries, religious provinces and related institutions, confraternities, associations and lay movements, owns by far the most part of the cultural heritage of the country [...] and it is supposed to exceed 70% of the national heritage”. The same conclusion is also reached by Roberto Borio di Tigliole, *La legislazione italiana dei beni culturali. Con particolare riferimento ai beni culturali ecclesiastici* (2018, 91); Antonio G. Chizzoniti, “Il patrimonio immobiliare della Chiesa di interesse culturale: risorsa o zavorra?” (Chizzoniti 2018, 183), and Nicola Gullo, “Art. 9. Beni culturali di interesse religioso” (Gullo 2019, 90). According to Federico Alvino and Clara Petrillo, “La gestione dei beni culturali ecclesiastici” (1998, 593), ecclesiastical cultural assets would represent about 80% of the national cultural and artistic heritage.

¹⁴The territorial surface of the Diocese of Turin covers 3.540km² and 137 municipalities in the Metropolitan City of Turin, 6 in the Province of Asti and 15 in the Province of Cuneo. See Cancelleria della Curia Metropolitana, *Guida dell'Arcidiocesi di Torino* (2014).

¹⁵This data dates back to the December 31, 2018.

¹⁶These decrees found their legal basis on cann. 1222 § 2 of the 1983 code of canon law, that states: “Where other grave causes suggest that a church no longer be used for divine worship, the diocesan bishop, after having heard the presbyteral council, can relegate it to profane but not sordid use, with the consent of those who legitimately claim rights for themselves in the church and provided that the good of souls suffers no detriment thereby.”

form them into luxury apartments, hotels, or spas. Indeed, the “religious Church” (Institutes of Consecrated Life and Societies of Apostolic Life) is completely autonomous and cannot be sustained by the “8 per mille”, a mechanism adopted in 1990 in Italy to support religious organisations through a percentage of revenues from taxes. These funds are reserved only for the “hierarchical Church” (Italian Episcopal Conference and, through it, Dioceses and Parishes). These communities are thus driven to sell their assets when only a few members remain and there are no other ways to recover livelihoods. According to recent literature, if trends do not invert, all Italian convents will be closed by 2046 (Giani 2019, 69). This is a problem that must be addressed by both the Church and the public authorities. An international conference on this topic took place in Rome in the spring of 2022¹⁷.

Considering the case studies analysed in this research, it is possible to distinguish some legal instruments that help implement the new uses of the buildings. They mainly consist of gifts to municipalities, free loans to other Christian communities (Orthodox or linguistic groups of Catholics) and sales to private actors (especially the former houses of religious communities). However, the most interesting aspect consists in the change of ownership: if originally 66 goods belonged to ecclesiastical bodies (49 to parishes and confraternities, 17 to religious communities), after the reduction to profane use only 25 are still held by ecclesiastics. In particular, the property has mainly been transferred to Municipalities or to privates. Moreover, in all these cases, the involvement of the community in the decisions, as considered in the theory of commons, was insufficient when not completely absent or limited to the assent of the Parish Pastoral Council.

Nevertheless, in a few cases, the consideration of places of worship as commons emerges in the use of peculiar legal instruments and in the role played by the community in setting the process in motion, in accordance with a from below approach. A practical way to do so has been the use of “collaboration pacts”, which are agreements between public administrations and citizens on the management of urban commons, with mutual rights and duties. These

¹⁷I refer to the “Charism and creativity” international conference on Catalogues, management and innovation regarding the cultural heritage of institutes of consecrated life, promoted by the Pontifical Council of Culture and Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, that took place at the Pontifical University Antonianum in Rome, on May 4 and 5, 2022. See, for further information, the official website.

pacts can be signed for churches that are still used for both liturgical and profane functions. For example, in the case of the Golden Cross church in Rivoli, a town of about 50,000 inhabitants in the metropolitan area of Turin, a collaboration pact was signed between the Municipality, the owner of the building, and the Golden Cross association, so as to maintain liturgical purposes and manage this cemeterial church¹⁸.

More complex is the case of Saint Remigius's church in Carignano, a smaller town with 9,000 inhabitants, set in the South area of Turin. This church has not been used for worship since the 1970s when a heavy snowfall broke the roof of the structure. In 2004, after years of decay and neglect, some citizens formed a not-for-profit association, called *Pro San Remigio ONLUS*, whose goal is to restore it and give it back to public use¹⁹. Instead of a collaboration pact, a thirty-year free loan contract was signed between the Municipality, the owner of the church and the surrounding garden, and the association. The funds to start the restoration works came not only from the membership fees, but also from the "5 per mille" mechanism, a little per cent of taxes that taxpayers can destinate to associations that promote social or cultural activities by putting the tax code of the chosen association and signing in a special box in the tax return. In this manner, about 8-10,000 euros per year arrived in the coffers of the association, which received other contributions from the Municipality (80,000 euros) and through legacies (200,000 euros). In 2019 the Superintendence of Cultural Heritage approved the executive project and the works are still in progress. The new use has not been defined yet, but it is sure that an occasional use for worship, on the patronal feast, would be preserved by the association. The perspective is a mixed use, for cultural and liturgical purposes, in order to make management sustainable in the long term. The project includes the opening of the garden to the public, the restoration of the landscape values and the improvement of the quality of life for local inhabitants.

¹⁸The text of this collaboration pact is available on the official website of the Municipality of Rivoli.

¹⁹See the official website of the association.



Figure 2: Saint Remigius's Church - Carignano

In terms of management solutions, another compelling example comes from Emilia-Romagna, a rich and productive region in the northeast of Italy, and involves the diocese of Reggio-Emilia, which loaned the former seminary to the local university. As a result, this impressive complex has been transformed into a university hub, with classrooms, services and student accommodation, to increase the educational offer in the city. The rental fees—reduced to a symbolic price—are entirely designated as a contribution of the Church to the refurbishment works. By doing so, the diocese retains ownership of the building, which was built in the 1960s and is about to be considered a cultural heritage, while allocating it to new social purposes, linked to its original function, moving from the education of clergy to the education of students. Other funds derive from a wide range of public and private local stakeholders, joined together in the formally constituted committee *Reggio Città Universitaria*²⁰. This juridical person, created by the Diocese, the Municipality, the Province, the trade associations of undertakings and the cooperatives, and other important local enterprises, distinguishes between “members” and “supporters”, in relation to the amount of their contributions and the relative participatory rights in the assembly, that can be both juridical and physical persons. Fulfilling the requirements of legislative decree 117/2017, this committee is considered a “not-for-profit organisation” and falls under the notion of ETS, “Third Sector Entities”, allowing it to benefit from tax advantages and other financial aid.

²⁰See the official website of the committee.

One more interesting case is that of a disused former monastery located in Vicopelago, a district of Lucca, Tuscany. In this case, the Augustinian community of nuns that still owns the building—the original nucleus of which dates back to the 16th century—asked the University of Bologna for advice. This led to the organisation of a summer school to discuss the possibilities of adaptive reuse²¹. Given the wide extension of the complex, students envisioned different kinds of functions: some rooms could host a museum of memorabilia of the famous operatic composer Giacomo Puccini, whose sister Iginia was elected abbess several times (Niglio 2019, 15). Other parts could be dedicated to social housing and to agricultural productions, while the former cells could host students from a music school, and tourists.



Figure 3: Former Agostian Monastery in Vicopelago (Lucca)

²¹The proceedings of the Lucca Summer School have been published in L. Bartolomei, S. Nannini, eds., “La casa comune. Nuovi scenari per patrimoni monastici dismessi”, as a special issue of the online journal *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura* (2021).

This academic activity attracted the attention of public opinion, local public authorities and private stakeholders, who expressed their interest in the implementation of this refurbishment project. Regarding management solutions, one option could be the creation of a participation foundation. This juridical person combines elements of association (assembly) and foundation (assets earmarked for a purpose), in order to involve the ownership and all the public and private partners, including the so-called “active citizens”, around a common project (Vercellone 2020). Otherwise, the simplest option would be to sell the complex to the Municipality, a public body that may impose a destination constraint for public interest functions and engage a wide spectrum of stakeholders. No decision has yet been taken between the two possibilities.

Following this second option, a peculiar case is that of the former Salesian centre in Faenza, a municipality of 58,000 inhabitants set in Emilia-Romagna, not far from Ravenna. This wide real estate compendium (12,000 square metres) was sold by the religious community to “Faventia Sales s.p.a.”, a joint-stock company, created by the Municipality, the Diocese of Faenza-Modigliana and the local bank foundations in 2006 in order to buy and manage it²². This solution originated from the population, strongly opposed to the idea of leaving a place so full of memories for generations of inhabitants, who had studied, lived or at least played in the oratory for more than a hundred years, be left to decay. This mixed public-private ownership started the works of refurbishing and regeneration, for new social and cultural uses, including public offices of the municipality, lecture rooms for nursing and logopedist courses of the Bologna University, a football pitch and a music and drawing school. Then, as it was impossible to maintain all this impressive building autonomously, a new global vision was prepared, including the possibility to sell or loan some parts of it to private people, with specific destination constraints, such as private offices, a gym and a coffee shop. The revenues coming from this partial alienation have been reinvested in the works, entrusted to local enterprises, concerning the other parts, dedicated to functions of public interest (Luccaroni 2020).

Another fascinating but slightly different approach is that of the former convent in Chieri, a town of 36,000 inhabitants, beyond the hills surrounding Turin. There, the congregation of Benedictine Sisters, who left the building

²²See the official website.

in 2015 but still owns it, aims to sell the structure to the four local parishes. As a result, the ownership should move from a religious community to the “hierarchical Church”. The new uses will both include pastoral and social activities, involving local associationism and the Municipality. The suggested legal instrument consists of a foundation of participation, in which assembly representatives of the four parishes and of stakeholders can all sit together.

In conclusion, all these examples demonstrate that the concrete application of legal and management solutions deriving from the theory of commons is possible for the reuse of the ecclesiastical heritage, as long as these buildings are effectively considered part of the “common heritage” by the local population and the stakeholders.

A Comparative Perspective with Belgium: The Strategic Plans for The Future of Churches in Flanders

The identification of the legal solution for the reuse of ecclesial buildings cannot disregard the peculiar system of relations between the State and religious denominations in each European country (Tsivolas 2014).

An example of what can be considered the best practice is from Belgium, where there is not a complete separation between State and religions. In fact, its system could be considered “hybrid”, neither fully concordatory nor fully separatist, but based on a principle of mutual independence, tempered by public funding being allotted to religions (Sägesser 2011, 7, 13–14, 23).

Belgium is a Federal State, divided into three Regions: Flanders, Wallonia and Brussels-Capital. Regions have strong powers and, after the constitutional reform in 2001, they are responsible for the “management of temporal aspects of worship”, while the Federal State has the obligation to pay remunerations and pensions to the ministers of the six recognised religions (Catholic Church, Protestant Church, Anglican Church, Hebraism, Orthodox Church and Islam). At the same time, Regions have competencies in the protection of immovable cultural heritage, which encompasses a great part of Belgian churches²³.

²³For an overview of the Belgian situation, see Thomas Coomans, “Les églises en Belgique. Aspects architecturaux, enjeux juridiques et approche patrimoniale” (2006, 41–72). More specifically on the legal instruments used for the reuse of places of worship in Flan-

The main difference between Belgium and Italy is the ownership of places of worship. If in Italy most churches belong to ecclesiastical bodies, and only a minority to Municipalities, Provinces, Regions and State, in Belgium the Napoleonic laws or at least their base principles are still in effect. Consequently, churches built before the Concordat signed in 1801 between Napoleon and Pope Pius VII are considered public properties of Municipalities (parish churches) and Provinces (cathedrals)²⁴ (Vandenameele 2017). The duty to manage these buildings belongs to the *fabriques d'église*, a public body responsible for all the economic aspects of catholic parishes, whose members are elected among local parishioners. If a *fabrique* cannot afford all the expenses by itself, then the public administration is forced to intervene, covering the deficit. Other similar public bodies, but with different denominations (generally defined as *établissements chargés de la gestion du temporel des cultes*), exist for all the other five recognised religions, but with different territorial scales, in relation to their distribution, to which the same principles apply.

Through a concept-note in 2011, the Flemish Interior Minister Geert Bourgeois called for a debate on the future of the catholic churches in Flanders (2011). Because of the reduction of available public resources and the decrease in believers—currently less than 5% of the population participate in the Sunday mass (Voyé, Dobbelaere, and Billiet 2012, 147)—he encouraged a thorough reflection between the Catholic bodies, dioceses and parishes. The discussion concluded with the introduction of the so-called *kerkenbeleidsplan* or *plan politique en matière d'églises*, translatable into English as “strategic plan” (Danckers, Jaspers, and Stevens 2016; Judo 2016; Jaspers, Danckers, and Stevens 2018; Danckers et al. 2019). This document, drafted by the central administration of the *fabriques d'église* and municipalities, with the approval of the bishop, “offers a long-term vision brought to the local level

ders, see Johan Vannerom (ed.), *Vastgoedrecht en de Kerk. Alternativen voor de verkoop van religieuze gebouwen* (2014).

²⁴After the “regionalisation” of competences about the *fabriques d'église* and the other bodies that manage the temporal aspects of worship, due to the *Loi spéciale du 13 juillet 2001 portant refinancement des communautés et extension des compétences fiscales des régions*, come into force on the 1st of January 2002, it is up to the Regions to regulate the organisation of *fabriques* and the control of their budgets. Flanders adopted their own law with the *Eredienstendecreet* or *Décret relatif à l'organisation matérielle et au fonctionnement des cultes reconnus* on the 7th of May 2004.

for all buildings intended for the worship concerned on the territory of the municipality or province²⁵”.

The long-term vision should include at least the following baseline data:

- A description of the buildings (historical-cultural value, architectural possibilities, physical situation);
- The location of each place of worship in its spatial environment;
- A description of the current use and function of the buildings;
- A documented vision of the future use and function of the affected buildings, including an approach plan outlining how the future development with its related functions, or their reallocation, will be considered.

Concretely, the *fabriques d'église* and the municipalities must identify all the catholic places of worship in the territory and, drawing from a pastoral plan, indicate which of them will be still used for liturgical purposes and which will not and, in the latter case, what kind of new uses they will be readapted to. Possible demolition is not excluded if the building is not listed.

According to the guidelines issued by the Flemish Episcopal Conference, a wide range of solutions can be considered: cultural valorisation, mutual use, shared or mixed use in space or in time, reduction to profane use (*désaffectation*) and subsequent reuse (Danckers, Jaspers, and Stevens 2016, 154–58; Collin and Jaspers 2019, 174–78).

From a legal point of view, these documents can be considered as a sort of “memorandum of understanding”: their content is modifiable in agreement at any time and is not actionable before courts. On the contrary, it should be applied with cooperation and good faith on both sides.

Introduced as optional, their stipulation became mandatory in 2016, with effect from October 1st, 2017. Failing that, the *fabriques* cannot request regional contributions for the restoration of churches classified as “monuments”, recognised as having a particular cultural value that must be preserved by

²⁵Art. 2.1, no. 31/1, of the *Décret du 12 juillet 2013 relatif au patrimoine immobilier (Onroerenderfgoeddecreet)*, introduced by art. 2, no. 1, of *Décret du 15 juillet 2016 portant modification du décret relatif au patrimoine immobilier du 12 juillet 2013 et de divers décrets relatifs à l'exécution du plan relatif aux tâches essentielles de l'Agence flamande du Patrimoine immobilier et relatifs à des adaptations financières et techniques*.

public authorities²⁶. At the beginning of 2019, a policy plan was adopted by some 180 out of 300 Flemish municipalities (Danckers et al. 2019, 427).

The drafting of the plans can be assisted by *PARCUM*, the Flemish Centre for Religious Art and Culture, a not-for-profit organisation, economically supported by the Region of Flanders. Its experts can accompany, if asked, the participatory processes and carry out inventory operations.

In the Belgian praxis, it is possible to observe churches transformed into gyms for a Catholic school, a social restaurant, a library or a bookshop, a circus school, a university classroom, a Catholic radio registration centre or an orthodox church²⁷. Former convents and monasteries can host university research centres, libraries or residences for students²⁸.

Future perspectives and conclusions

As this paper attempted to demonstrate, the problem of the reuse of ecclesiastical cultural heritage and redundant assets of the Church is gaining more and more place in the Italian and international academic debate. After a first international meeting, held by the University of Bologna in 2016²⁹, another important conference was promoted by the Gregorian Pontifical University in 2018 in Rome³⁰.

²⁶Art. 12.3.12 of *Décret du 12 juillet 2013 relatif au patrimoine immobilier*, modified by art. 45 of *Décret du 15 juillet 2016 portant modification du décret relatif au patrimoine immobilier du 12 juillet 2013 et de divers décrets relatifs à l'exécution du plan relatif aux tâches essentielles de l'Agence flamande du Patrimoine immobilier et relatifs à des adaptations financières et techniques*.

²⁷For a collection of cases of reuse of churches in Belgium, see the *PARCUM* database, available here.

²⁸I refer to the former Great Beguinage (Groot Begijnhof) that is a residence for international students and professors at KU Leuven, or to the former Celestinian Priory, that now host the Arenberg Campus Scientific Library. The former Franciscan convent in Leuven is the headquarters of KADOC, a Documentation and Research Centre on Religion, Culture and Society.

²⁹The final proceedings of the international conference “The future of churches”, held in Bologna on 6th-7th October 2016, have been collected by Luigi Bartolomei, ed., “Il futuro degli edifici di culto: temi” (2016) and “Il futuro degli edifici di culto: paesaggi” (2017).

³⁰The proceedings of the international conference “Doesn't God dwell here anymore?”, held in Rome on 29th-30th November 2018, have been collected by Fabrizio Capanni, ed., *Doesn't God dwell here anymore? Decommissioning places of worship and integrated management of ecclesial cultural heritage* (2019).

A few weeks after this event, the Pontifical Council of Culture adopted a document, a sort of collection of “guidelines” on the reuse of places of worship³¹. Without defining which profane uses can be considered “not sordid” within the scope of can. 1222 § 2, this text prefers to emphasise the intra-ecclesial possibilities of reuse (for specialised pastoral activities; worship for other Christian communities; catechetical, charitable, recreational or cultural activities) and underlines the “dimension of re-appropriation [of these goods] by the communities”, that requires a “vision of co-responsibility [...] [that] could be entrusted to lay aggregations (associations, movements, etc.)”. In this perspective, redundant churches can be transformed into museums, lecture halls, bookshops, libraries, archives, art workshops, meeting places, Caritas centres, clinics, soup kitchens, but also into “spaces for silence and meditation open to everyone”. Nevertheless, the possibility to transform the “buildings of lesser architectural value” into private dwellings is not excluded.

Concerning the methodology, the document underlines the special role that communities and participatory processes should play, according to the latest scientific findings. For further research, the Pontifical Council of Culture wishes for a more strategic and systemic vision of the phenomenon and special consideration on the immovable heritage and on the “engagement with the local religious or civil communities in the processes of consciousness-raising and decision-making” (Pontifical Council of Culture 2020, 274–87).

After the publication of these guidelines, other seminars focused their attention on specific aspects of the conservation of the cultural heritage of religious interest, in a multidisciplinary perspective, that involves jurists, economists, and architects³².

Other related topics need additional attention and academic reflection: for example, the 2022 Rome Conference on the cultural heritage of religious communities is expected to propose guidelines on these peculiar assets also.

³¹The text of the guidelines is also available online in the English, Italian and French versions.

³²I refer to the seminars on “The protection of the ecclesiastical cultural heritage” and “The reuse of catholic churches”, organised on January 23, 2020 and on February 25, 2020 by the PhD course in Law and Institutions of the University of Turin and the Koinè Expo Webinar “The valorisation of ecclesiastical heritage”, held online on October 27, 2020.

Now it is time to put the finding of this academic research into practice and try to find a practical juridical instrument to face this challenge in a more systematic way.

On the one hand, more attention should be paid to these goods in canon law. According to some authors (Zuanazzi 2021, 65), can. 1222 § 2 could also be applied by analogy to monasteries and convents, even if they are not expressly qualified by the code of canon law as “sacred things”.

On the other hand, on the side of juridical and management solutions, both under public and private law (Dimodugno 2021, 139–52), I strongly believe that the theory of commons, the collaboration pacts and the foundations of participation, and other similar legal instruments, could be suitable for this purpose. The ownership could remain ecclesiastical or become public or private, but what truly matters is that it is destined to serve public interest.

In fact, this problem cannot be approached and solved without the cooperation of public bodies, stakeholders and citizens. The community should play a fundamental role in qualifying a good as a common and in deciding its new functions, with a keen attention to their cultural and social needs. Fortunately, the Italian Catholic Church seems to be sensitive to this issue.

Since 2019, the Italian Episcopal Conference has encouraged the participation of the communities in designing new parish churches and complexes, providing, in that case, additional funds. These participation processes have been guided by experts, who oversaw the meetings with citizens and administered questionnaires to them. The main objective of this solution consists in understanding the effective needs of the community before the submission of the architectural proposals to a call for competition (Bartolomei 2021 ; Longhi 2021).

The same principle should also be applied to the reuse of existing buildings, favouring the role of the communities in the decision-making process and in the definition of new profane uses. By doing so, a project can become a “common” one and it could be easier to collect public, ecclesiastical and private funds, including via crowdfunding campaigns, to support their implementation.

A multipurpose venue, a theatre, a museum, a space for co-working or cultural and social activities, in a neighbourhood or in a village where there are none, can also create new job opportunities, especially for young people.

Ecclesiastical and public authorities cannot leave this glorious heritage of art, faith and culture to be neglected and abandoned: it would be unforgivable for the entire community!

What is really missing in Italy are organisations, like the Belgian *PARCUM*, that can support ecclesiastical and public authorities in rethinking the future of the ecclesial heritage, providing advice and support to local communities. From a *de iure condendo* perspective it would be desirable to define also new “dialogue bodies”, at least at the provincial level, between the Catholic Church and the State.

They would be responsible for defining the “Italian strategic plans”, which should involve all actors, listening first to the emerging needs of the population. Thus, the principle of collaboration, affirmed specifically in relation to the cultural heritage of religious interest in the new 1984 Concordat³³, and the constitutional principle of subsidiarity, emerging from art. 118, par. 4 of the Italian Constitution, could effectively be applied to this subject.

On the ecclesiastical side, the Italian Episcopal Conference (2005, 396) should reconsider its restrictive position about mixed uses in space or in time³⁴, which are, nevertheless, found in practice (Asselle and De Lucia 2019). In fact, drawing on the Belgian experience, a mixed use of catholic places of worship, both for social and cultural activities and, occasionally, for liturgical

³³Art. 12, par. 1 of the Villa Madama Agreement, signed between the Holy See and the Italian Republic on February 18, 1984, affirms: “The Holy See and the Italian Republic, in their respective orders, cooperate to protect the historical and artistic heritage. In order to harmonise the application of Italian law with religious requirements, the competent bodies of the two Parties shall agree on appropriate provisions for the safeguarding, enhancement and enjoyment of cultural heritage of religious interest belonging to ecclesiastical bodies and institutions [...]”. See Article 7 § 3(b) of the Implementing Rules of the Provisions concerning the granting of financial aid by the Italian Episcopal Conference for ecclesiastical cultural assets and buildings of worship, as amended on January 15, 2019. For more details about the participation of the community in the process of projecting new catholic parish churches in Italy, see Jacopo Benedetti, ed., *Comunità e progettazione Atti della Giornata Nazionale “Comunità e progettazione. Dai Progetti pilota alla Progettazione pastorale” organizzata dall’Ufficio Nazionale per i beni culturali ecclesiastici e l’edilizia di culto della Conferenza Episcopale Italiana – Viareggio, 17-18 giugno 2019* (Roma: Gangemi, 2021).

³⁴Determination No 128 of the Administrative Instruction of the Italian Episcopal Conference, issued on November 1st, 2005, states: “The dedication of a church to public worship is a permanent fact that is not susceptible to division in space or time, such as to allow activities other than worship itself. This would in fact be tantamount to violating the restriction on use, which is also protected by Article 831 of the Italian Civil Code”.

purposes, should be considered fully compatible with canon law. To achieve that goal, a reform of both canon law and State law, respectively on sacred places and places of worship, is required.

In conclusion, imagining new functions and innovative and inclusive management solutions obviously requires a strong change in the behaviour and in the mentality of all the players involved and the necessity to invest more funds, also—why not?—deriving them from the Next Generation EU “recovery plan”.

If this complex challenge is met, the reuse of places of worship, monasteries and convents may become not only a source for the cultural, economic and social development of local communities, but also a concrete means for the re-birth of Italy, a new *Rinascimento* after the pandemic crisis.

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