

Italy. Two important Court Decisions in a Few Days

Bianca Soria (April 12, 2014)



Fact number one: Italy's Constitutional Court has overturned a controversial law from 2004 that banned the use of sperm or egg donation for infertile couples. Fact number two: a court in the Tuscan city of Grosseto has for the first time in Italy recognized a gay marriage, which had been previously celebrated in New York

In the matter of a few days two court decisions in Italy are abruptly forcing the Italians, the politicians and the Church, to face two social and bioethical themes that, despite always being undeniably current, have been relegated to the substratum of the contemporary political debate.

These two events are dividing the public opinion and are raising many questions that shake the core of our religious culture in our secular state.

Fact number one: Italy's Constitutional Court has overturned a controversial law from 2004 that banned the use of sperm or egg donation for infertile couples. The law, deemed to be one of the most restrictive in Europe, had generated a phenomenon of 'fertility treatment migration'. with



thousands of Italian couples seeking elsewhere, in Europe and beyond, that expensive medical assistance to procreate that they had been denied in Italy. And while the debate never ceased to exist at the edges of the political scene, reviewing this law has never been a priority in the agenda of our legislators of the last decade.

Fact number two: a court in the Tuscan city of Grosseto has for the first time in Italy recognized a gay marriage, which had been previously celebrated in New York. In Europe, Italy is in the minority when it comes to somehow recognize same sex-unions: being them marriage or civil unions or anything else, to date, Italy still does not have a law. Again, over the years, we have been assisting to another migratory phenomenon taking place when same sex couples went elsewhere to get some sort of recognition of their union, only to see that certificate being considered scrap paper once they crossed the Italian borders. Until now. Until this week a judge made a historic decision on the grounds that there was “no reference to gender” in the city council register of married couples. Therefore finding no obstacles and recognizing the marriage.

The two events are chronologically so close to each other to make one wonder whether it is by chance or if it is the unavoidable consequence of an underlying transformation in our traditional culture and vision of family.

These decisions are made by judges whose job is to apply the laws, but who also seem to be called to make unprecedented rulings or overstep in the legislative field in order to bridge the gap between anachronistic or underdeveloped domestic norms and the need to address the ever-changing societal and ethical demands of our country.

In a country like Italy, secular on the paper but in fact so heavily influenced by the Church in so many crucial aspects of its life, political and not, these court decisions have obviously met the opposition of the Church. The Italian Catholic Bishops conference, in relation to the same sex marriage recognition, has been quoted as saying: “one of the fundamental pillars of the institution of marriage is likely to be swept away, one that is rooted in our cultural tradition, and is recognized and guaranteed in our constitution”.

Predictably, the catholic weekly ‘Famiglia Cristiana’ has also condemned the ruling concerning the sperm and egg donation as “Italy’s latest folly”, one that “clears the way for “wild” possibilities of reproduction unassociated with marital acts.”

While the conservatives recommend not to lose sight of the distinction between wish and civil right, between what would be desirable and what should be legally recognized, between the role of the judges and the role of Parliament, the supporters of gay marriages and those unwillingly dealing with the Italian restrictive reproduction laws are euphorically welcoming the wind of change.

Change and transformation that have also been the distinctive trait of Pope Francis papacy. Some even venture to suggest that the new climate by him created in the Church and the silence of its newspaper “L’Osservatore Romano” in regards to the ban of the 2004 medically assisted procreation law, may also be sending clear signs of the will of the Vatican to not interfere with Italy as a state, with its institutions and its politics.

Whichever side we are on, it seems obvious that when it comes to give a legislative answer to a current and pressing socio and bioethical problematic, from assisted procreation or euthanasia, to adoption by singles or same sex marriage, Italy has the bad habit of sitting on the fence, reluctant to change, rather inclined to take a passive approach, often leaving its citizens to fend for themselves in the vacuum created by a society that evolves at high speed and self imploding politics that systematically fails to adequately support the people it is supposed to represent.



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Links

[1] <http://newsite.iitaly.org/files/37819gayitalia1397273730jpg>