



CONTENDING RELIGIONS, IDENTITIES AND SPACE

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PAPER'S TITLE: **The re-expansion of the Islamic ordering principle in a comparative constitutional perspective. Analyzing Political Transitions in North Africa**

ABSTRACT:

In the XXI Century we are witnessing a re-expansion of Islamic ordering principle, both on a global and metropolitan scale, as a result of a combination of a several social and cultural factors, like the growth of Islamic population, the renaissance of religious identities, and the crisis of the leading role of the western Constitutional models.

The phenomenon concerns in a special way the Mediterranean area, where profound geopolitical upheavals known as "Arab Spring" have occurred. For this reason, the question of that "re-expansion" has interested not only Sociologists and Politicians, but also the European constitutional scholars.

According to the most authoritative European Constitutionalist's doctrine, Islam is incompatible with a constitutional democracy. In particular, according to that doctrine, the failure of several attempts to conciliate Sharia and Constitutionalism depends on the fact that the nation-state, which is the basis of the Rule of the Law, do not have a solid autochthonous tradition in Muslim World, given the Islamic "communitarian paradigm" which rules Islamic society. It is time to radically re-examine this thesis.

I will argue that, nowadays, also in Western World, we are dealing with the crisis of the secular state-nation model, on which constitutional democracies have been built. The Globalization is changing the World's political paradigms: the crisis of the "State-nation" model is now a matter of fact, both for International relations experts and jurists. In particular, Constitutional scholars are more and more dealing with the increasing role of Religion in Public Affairs, as an aspect of the growing of communitarian actors on the political-social scene.

Even more so, in analyzing constitutional experiences occurring in Islamic Countries we should not adopt a schematic approach, grounded on the presumption of the radical secularization of the public sphere as a *conditio sine qua non* for the affirmation of the Rule of the Law. We need an "hermeneutical-functionalist" approach to the Islamic Constitutionalism, also in an interdisciplinary perspective, by adopting the new analytical tools elaborated by the scholars in the field of cultural anthropology. Thanks to the developments of Comparative methods, we can deal with an interactive relationship between the European contemporary Constitutionalism and the Islamic one. For example, the juridical definition of "Arab Spring" is possible only by critically discussing some European paradigms, like the close relationship among Secularization, Constitutionalism, and Democracy.

Finally, as case studies, I will analyze the recent constitutional changes in Egypt and in Tunisia, with particular regard to the role of Sharia, the Constitutional Review and the relationship between the Executive and the Legislative power. Thanks to the above mentioned "hermeneutical-functionalist" approach I will draw a dynamic map of the above mentioned changes, focusing on some issues which are juridically incomprehensible from a strictly European point of view (e. g.: the role played by the Supreme Constitutional Court in Egypt, the battle of 'Ennhada' for a parliamentary system, etc.).



AUTHOR'S SHORT BIO AND ACADEMIC PROFILE:

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MAIN RESEARCH FIELDS (2007-2015): Public Islamic Law and Islamic constitutionalism; Globalization and crisis of "Westphalian model"; Development of the Western parliamentary systems, in the light both of the Accountability-problem and the Legislative-Executive balance; Democratic governance in multi-cultural and multi-ethnic societies; New Perspectives on Parliamentary Systems

BOOKS (2007-2015): Diritto pubblico dell'Islam mediterraneo (2015); Principi sciaraitici e organizzazione dello spazio pubblico nel mondo islamico (2012); Giustizia e costituzione. Note comparatistiche sulla transizione italiana (2011); Il governo della Mezzaluna (2010); La Rappresentanza mite. Le Seconde Camere e il futuro della democrazia parlamentare (2010); Weimar. Un laboratorio per il costituzionalismo europeo (2007).