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GENDER UPDATE

Legislative reforms to fight discrimination and violence against LGBTQ+: the failure of the Zan Bill in Italy

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Italy lags behind other European countries in recognising LGBTQ+ rights. The Zan Bill, named after its proposer, the Democratic Party Member of Parliament (MP) Alessandro Zan, put LGBTQ+ rights on the current parliament's agenda, generating a heated debate both within and outside the institutional arena. Had it been approved, the bill would have explicitly penalised discrimination, violence and hate speech on grounds of sex, gender, sexual orientation, gender identity and disability, equating these offences with racist crimes already included in the penal code (Arts 1 and 2). In addition, the bill called for a 'National day against Homophobia, Lesbophobia, Biphobia, and Transphobia', urging schools and public institutions to promote more inclusive citizenship and counteract prejudice and discrimination based on sexual orientation and gender identity (Art 6). Lastly, the bill envisaged the opening of countrywide anti-violence centres to provide assistance and support to victims of discrimination (Art 8), and the creation of databases on homotransphobic assaults (Art 9).

On 27 October 2021, the Italian Senate rejected the bill through an anonymous vote after three years of legislative procedure and despite the fact that the bill had already been approved in the Lower House a year earlier. This was not a first. In 1999, the Palma Bill had proposed to extend legal provisions for prosecuting ethnonationalist hate crimes (the Mancino Law) to discrimination based on 'sexual orientation and gender identity', followed by a similar attempt in the 2013 Scalfarotto Bill. In 2014, the Cirinnà Bill proposed the recognition of same-sex marriage. Among these, only the Cirinnà Bill became law in 2016, though it suffered a negative compromise whereby marriage was replaced by civil partnership and the ruling on adoption (including that of step-children) was excluded for same-sex couples (Ozzano, 2020). The Vatican and the Italian Episcopal Conferences (CEI) were especially staunch and effective opponents of all three bills, including the Zan Bill.

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We can understand these failures in the light of the high polarisation characterising the Italian political debate around sexual citizenship rights and morality issues. The Catholic Church is still an authoritative actor in the Italian socio-political arena, and Christian values are quite central to political contestation. The progressive secularisation of societal majorities regarding morality issues, gender and sexuality since the 2010s has radicalised religious collective identities on the Right, resulting in mounting opposition against 'gender ideology' and claims about defending traditional, 'natural' families and biological notions of sex and gender (Feo and Lavizzari 2021). Religious actors, civil society organisations and radical-right parties and movements have joined forces in so-called 'anti-gender campaigns'.

This conflict emerges clearly in discussions surrounding the Zan Bill, both in parliament and beyond. Proponents frame it as a human rights issue and as a necessary norm to keep pace with a fast-changing society. Opponents challenge the notion of 'gender identity', criticising it from either a conceptual perspective or a procedural one.[1] They have also attacked the educational purpose of the bill, accusing it of restraining freedom of expression, opinion and organisation, while allowing the instillation of 'gender ideology' in children's education. Also, a small fraction of the feminist movement figures among the bill's critics because the notion of gender identity is said to erase the experience of women and their bodily sense of oppression.[2]

The Zan Bill has also been affected by the institutional features of Italian bicameralism, allowing the opposition first to delay and finally to sink the proposal,[3] with some help from political free-riders. The bill was first presented in the Lower House at the beginning of the legislative term in the spring of 2018 but only entered the parliamentary schedule in 2019, after the populist-right La Lega left the government and was replaced by a centre-left coalition of the Five Star Movement (M5S) and the centre-left Democratic Party (PD). Besides the PD, the bill bears the signature of the M5S and the leftist party Free and Equal (LeU), all of which contributed to it by expanding its scope. They were joined by some members of Forza Italia (FI), as the latter granted its MPs freedom of conscience on the final vote. This front of Lower House parties voted in favour of the bill, which was adopted with a large majority. The opposition front included two radical-right parties – La Lega and the Brothers of Italy – as well as exponents of the conservative Catholic movement spread between different parliamentary groups. In the Senate, the bill then entered into a stalemate. The president of the committee to which the bill was assigned, La Lega Senator Andrea Ostellari, postponed the bill's first reading for six months, and it was subsequently filibustered by the opposition. The plenary discussions in the Senate in August and October 2021 took place in a changed political setting, with different majority–opposition equilibria. The bill now lacked the support of the FI MPs previously in favour, while other senators withdrew their support strategically, protected by anonymous voting.

Of course, institutional flaws (for example, parliamentary filibustering) are simply exacerbated when strong opposition between conflicting views occurs. The recent debate on the Zan Bill had assumed a moral dimension that ultimately related to questions about traditional societal gender norms and expectations. The rise of the radical- and centre-right coalition will not help advance the LGBTQ+ rights agenda any further. Indeed, the Zan Bill has been a lost opportunity, coming at the expense of the entire citizenry.

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Notes

[1] Procedural critiques either see gender identity as being too vague a notion for a legal case or accuse the law of creating too many definitions and confusion, thus leading to difficult and debatable legal judgments.

[2] Specifically, the Arcilesbica and Se non ora quando associations, which hold strongly gender-critical (anti-trans) positions.

[3] Italy exemplifies symmetrical bicameralism. The two houses – the Chamber of Deputies and the Senate – equally share legislative powers. Different electoral laws employed over the years have sometimes produced incoherent majorities in both houses.

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Conflict of interest

The author declares that there is no conflict of interest.

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