

Religion-Based Refugee Claims in Italy: Chinese Asylum Seekers from The Church of Almighty God

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ABSTRACT: In recent years in Italy, the number of requests for international protection based on religious reasons has increased. The article discusses the case of Chinese refugees from The Church of Almighty God, a Christian new religious movement severely persecuted in China. Based on interviews conducted with lawyers, social workers, and Chinese refugees themselves, an attempt was made at reconstructing the situation of these asylum seekers after the recent changes in Italian law.

KEYWORDS: The Church of Almighty God, Chinese Refugees in Italy, Religion-Based Asylum Claims, “Decreto Sicurezza,” Refugees in Italy.

Introduction

Chinese migration is one of the oldest and most important migratory flows on both the Italian and international scene. The first significant waves of modern Chinese migrants came to Italy in the 1980s and 1990s, when China was still far from being today’s economic and technological superpower. In fact, most of the Chinese migrants to Italy came in these years from the city of Wenzhou, and from the rural areas of its hinterland, where the poverty rate was very high.

In recent years, however, this traditional economic immigration has been supplemented by a smaller but completely new category, which often comes from economically advanced cities such as Beijing, Shanghai and Guangzhou. The phenomenon concerns Chinese fleeing China and coming to Italy asking for protection, as they are being persecuted for their religious beliefs. The specific case analyzed in this paper concerns Chinese asylum seekers belonging to The

Church of Almighty God, a religious group included by scholars within the category of Christian new religious movements (Folk 2018) and inserted by the Chinese Communist Party (CCP) in its list of *xie jiao* (Introvigne 2019b). This list includes movements and religions regarded by the CCP as “heterodox” and severely persecuted (Irons 2018).

In theory, the Chinese legal system formally recognizes and guarantees religious freedom for “normal” religions, by which it means State-approved and State-controlled religions. These are also subject to limitations and occasional repression (Introvigne 2019a), and religions outside the system of State-controlled organizations are persecuted. The groups the CCP decides to single out as *xie jiao* are the most persecuted (Irons 2018). To escape this harsh repression, and freely profess their beliefs, devotees of The Church of Almighty God are willing to undertake great sacrifices, even if this involves severing all their relations with their home country and their loved ones and escaping abroad.

As of May 2019, 814 members of The Church of Almighty God had requested asylum in Italy. 113 requests were granted, 291 were rejected with final decisions, and the others were pending (Introvigne 2019b). These refugees arrive in Italy with tourist visas, and passports obtained either because they are not known to the authorities as members of The Church of Almighty God, or because they were able to exploit loopholes in the system or be assisted by friendly or corrupted police officers (Zoccatelli 2019). Upon arrival, the fugitives do not know what rights they can exercise on Italian territory. Neither do they know the meaning nor the function of the request for international protection, notions they should be patiently taught.

Institutional bodies and non-profit organizations are supporting asylum seekers at every stage during the process of requesting international protection, offering them both the psychological and the legal assistance needed to fulfill the requirements to obtain refugee status. Still, obtaining protection remains very difficult for many Chinese asylum seekers fleeing religious persecution in their country. The Territorial Commissions are reluctant to recognize their status as refugees. They often perceive their stories, as told in the interviews, as vague and contradictory. Some Commissions also claim that there would be a low probability of incurring violence and serious harm, should the asylum seekers return to China.

Clearly, something is wrong here, as the perception of the Commissions is in

contrast with the relevant scholarly and human rights literature, which is virtually unanimous in assessing as very serious the risk that members of The Church of Almighty God who seek asylum abroad, should they return to China, would be arrested and sentenced to long jail terms, and possibly even tortured and killed (Introvigne 2019b; USCIRF 2019). Hence, the need in Italy to train both the lawyers who assist these refugees in their appeals against the negative decisions of the Commissions and the judges, so that they may deepen their understanding of the real socio-political context in China and of The Church of Almighty God.

Religion-based Refugee Claims in Italy

How asylum is regulated in the Italian legal system is a matter of great complexity. There is no single regulation governing this matter. Instead, there are several and numerous sources of law, at times not well coordinated among them. First of all, article 10 paragraph 3 of the Italian Constitution of 1947, i.e. the Constitution still in force, states that “the foreigner, who is prevented in his or her country from actually exercising the democratic freedoms guaranteed by the Italian Constitution, has the right of asylum in the territory of the Republic, according to the conditions established by the law.”

However, this general statement was not followed by any directly binding legal provision. It was only several years later, thanks to some important rulings of the Court of Cassation (Cassation, Joint Sections, decisions no. 4674/97 and 907/99; Cassation, Section I, decision no. 8423/04), that the case law finally recognized asylum as a subjective right of the refugee. As a right, it can be requested by the refugee directly before an Italian judge (ASGI 2014). In this paper, I cannot comprehensively discuss the complex issue of the Italian Constitutional notion of asylum. I will focus on the discipline of international protection in Italian law, and its application to the case of religion-based asylum requests by Chinese refugees from The Church of Almighty God.

International protection in Italy can be granted in two different ways. One is the status of refugee, the second is subsidiary protection. The first type of protection, granted through the issuance of a residence permit based on political asylum, is the only one that fully recognizes the status of refugee. Its validity lasts for five years. It is renewable, and allows access in the same way granted to any Italian citizen to study, work, health care, public housing, and the right to be

reunited with spouses and children, who have a right to come to Italy and reside there (Ministero dell'Interno 2015).

According to the Geneva Convention on Refugees of 1951 (Article 1), “refugee” is defined as whoever

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

The essential elements for the legal recognition of refugee status are three. First, the applicant must be outside of his or her own country, and (most importantly) should have a well-founded fear of persecution in case of returning there. A merely subjective feeling of fear is not enough. It is necessary to prove that the fear is well-founded. It should be proved that the asylum seeker risks persecution in the country of origin. The feeling of fear is, by its very nature, turned towards the future. It is not necessary that a refugee has already suffered persecution in the past (ASGI 2014). A refugee may, in fact, have succeeded until the time of the escape to avoid persecution. The asylum should still be granted, when the fear to suffer persecution in the future is reasonable, especially when co-religionists of the same family or local community have already been persecuted. Asylum should also be granted when it appears that in the country of origin, individuals who are in the same situation of the applicant are persecuted. Of course, having personally suffered persecution in the past or having been the object of direct threats, justifies in the clearest way the fear of being persecuted again in the future, unless it emerges that in the meantime the situation of the country of origin has radically changed.

Second, there should have been specific reasons for the persecution. The persecution, feared or suffered, should have been inflicted because of one of the reasons indicated by the same Article 1 of the Geneva Convention, i.e. race (for example, skin color, descent, belonging to a specific ethnic group), religion (including theistic, non-theistic and atheistic convictions; participation in, or abstention, from certain rituals; public acts of faith and forms of behavior prescribed by a certain religion); nationality (including belonging to a group characterized by a specific cultural, ethnic or linguistic identity, a common

geographical or political origin, or affinity with the population of another state); belonging to a particular social group (sharing a certain common history, identity, or sexual orientation); or professing political opinions banned in the country of origin.

In Italy, the subsidiary protection, which is also valid for five years, is recognized to those non-European citizens who, although they do not possess the specific requirements to obtain the status of refugee, are nonetheless awarded the same rights granted by the residence permit for political asylum. In this case, the authorities believe that returning to their country of origin would expose them to the real risk of suffering serious damage, including a death sentence, acts of torture or inhuman or degrading treatment, a threat to life, or harsh instances of persecution.

In order for the applicant to be recognized as a refugee, there should be a third and important element. It should be impossible to be protected in the country of origin. The asylum seekers must, in other words, be in the position of not being able to contact the authorities of their own country, because, if contacted, the latter would persecute rather than protect the refugees. However, in some cases, an act of persecution may be considered directly attributable to a State even when it is not committed by its official bodies. For example, when the act of persecution comes from agents who, although not being part of a governmental body, are in any case able, based on the domestic law of that same state, to act in a way typical of a public authority. Even an act of persecution committed by private individuals can be considered directly referable to a State, if the act was committed under instruction, direction, or control of state bodies.

With respect to persecution for religious reasons, a subject of interest for the purposes of our discussion, international law protects the right to freedom of thought, conscience and religion (see e.g. art. 9 ECHR) in the widest possible sense, including the freedom to change religion, to profess a religion, and to express it, both in public and in private. Protection should also be granted when a person is persecuted because she does not wish to profess any religion, refuses to adhere to it, or does not want to comply with parts or all of the rituals and customs relating to a religion (Article 8, paragraph 1, letter b of the Italian Legislative Decree 251/2007, based on the European so-called Qualification Directive).

The persecution for religious reasons can take different forms, such as the prohibition of belonging to a religious community, of celebrating its rituals in

public or in private, of evangelizing on behalf of it, of giving or receiving religious instruction. It may consist in the adoption of discriminatory measures against those who profess a creed or who are part of a religious community, as well as in practices aimed at forced conversion or the obligation to conform to certain religious or atheistic models. Finally, persecution acts also include those carried out to directly violate freedom of religion, for example by prohibiting or imposing certain religions, or discriminating citizens because of their religion.

Arriving in Italy

What has been described so far represents the system of normative prerequisites for the recognition of refugee status. Now, I will discuss the procedure an applicant has to follow in Italy to prepare the asylum request and arrive at the decisive interview with the Territorial Commission. First, I will list the main bureaucratic and administrative requirements. Second, I will discuss the specific case of Chinese asylum seekers from The Church of Almighty God, based on my interviews with them, their lawyers, and NGOs trying to help them.

Upon entry into Italy, the refugee should be informed immediately about the possibility of applying for international protection, which should be requested personally and individually to the relevant public security authority. By law, no peremptory deadline for submitting the application is determined. An asylum request cannot be subjected to any preliminary assessment of admissibility by the public security authority, nor can it be rejected or excluded solely because of not having been presented promptly. The police officers should limit themselves to receiving the application and passing it on to the competent Commission.

The system of hosting refugees in Italy operates at two levels. The first level includes hotspots and CPAs (First Reception Centers), and the activity provided by the SPRAR (Protection System for Asylum Seekers and Refugees). The SPRAR is a circuit of second level hosting services, aimed at helping applicants for international protection and refugees (Morandi, Schiavone and Bonetti 2015).

It is important to understand the functioning and meaning of the hotspots system. In 2015, the European Union published the *European Agenda on Migration*, which for the first time introduced this system and defined its key features. The term “hotspot,” which is intended here as a “critical intervention

point,” refers to all those operations designed to facilitate these countries most interested in best managing refugee and migration flows. It is a “filter,” through which all refugees are subjected for a first identification, a health screening, registration and fingerprinting, and, finally, assessment of possible vulnerabilities. Subsequently, the refugees should fill in the so-called “news sheet,” a document including their personal details, their pictures, basic information about their origin, the reasons for coming to Italy and for seeking international protection.

The SPRAR was established by Italian Law 189/02. It is characterized by a network of local administrative authorities aimed at providing what is called an “integrated reception.” The aim is not only implementing basic material subsidies, such as board and lodging, but above all providing a series of services, such as legal assistance, orientation and support for work, social and housing integration, linguistic and cultural mediation. The SPRAR should also favor a progressive and effective path towards the achievement of the full autonomy of its beneficiaries. The SPRAR network puts together several public and private subjects, such as the ANCI (National Association of Italian Municipalities), the Ministry of the Internal Affairs, and local administrative authorities, as well as NGOs and specialized cooperative companies, which have the task of assisting institutional bodies in the management of various local projects. All participate in a dense network of collaboration aimed at guaranteeing to asylum seekers the minimum services that must be offered to develop their integrated reception.

Regarding those defined as vulnerable, including people who have suffered torture or physical and psychological violence, these structures have the task of starting the procedures to ascertain it as soon as possible. When these situations are ascertained, asylum seekers should receive adequate assistance and psychological support (Servizio Centrale SPRAR 2016).

All those who have applied for international protection and are present on Italian territory, even if they are at the border, in transit areas, or in Italy’s territorial waters, have the right to access the services offered by the reception system. According to Italian legislative decree no. 142/2015, the applicant for international protection enjoys special guarantees concerning the right to be informed and duty to inform. The duty to inform is required, first of all, from the police officers who, when receiving the request for international protection, should inform the applicant about the procedure to be followed, the refugee’s

rights and duties during the proceedings, the deadlines and the remedies in case the request is denied, and so on. Secondly, the right to be informed applies to every stage of the procedure. The applicant has the right, at any stage, to communicate with UNHCR representatives, lawyers, and specialized NGOs to receive adequate support.

In theory, the system should effectively protect the asylum seekers' rights. In practice, several flaws have been noted, starting with the hotspot model. NGOs report about confused refugees seeking in their offices information they should have received as soon as they arrived in Italy, but didn't. Often, language is the problem. The hotspots should immediately ascertain situations of vulnerability, but they cannot do so if their personnel lack the necessary linguistic skills (Parlato 2015). Language is also a problem when the asylum seekers, as the law theoretically mandates, should receive a complete overview of their rights and obligations.

As mentioned earlier, the "second reception" should be carried out in the SPRAR centers. However, SPRAR are overcrowded, and this has increased the recourse over the years to extraordinary reception centers. The NGOs dealing with migrants and refugees, which represent a valid support to the activity of the SPRAR, have requested that the assistance network be extended. They call for more "second reception" facilities, and in general for a better management of a phenomenon whose growth has created several problems. In some regions, the number of asylum seekers is so high that the operators do not always manage to guarantee an interview to all (Rome NGO 2018).

The Church of Almighty God Refugees Discover Italy

In 2015, two Chinese women visited an NGO in Rome seeking information about how refugees fleeing from religious persecution can receive asylum in Italy. They were members of The Church of Almighty God. For the NGO, this was an absolute novelty, since until that moment Asia for them was represented by Pakistani, Afghan and Bengali migrants and refugees. They knew these countries well, but the visit of Chinese asylum seekers surprised the NGO operators and caught them completely unprepared. Until them, Chinese refugees were for them an unknown phenomenon. Since other NGOs received similar requests, an informal network for exchanging information was created among several

associations operating in Italy, lawyers, and social workers.

The Church of Almighty God was, however, largely unknown. It quickly became apparent that the information available on the Internet was far from being reliable. Slowly, NGOs started consulting scholars of religion and specialists of China, and received several clarifications about religious persecution in China and The Church of Almighty God. Yet, question marks remained (Rome NGO 2018).

Since 2015, in fact, numbers of asylum seekers from China became substantial in several countries. The UNHCR Global Trends mentioned a quintupled figure within five years. There were 57,705 asylum seekers from China throughout the world in 2015 compared to 10,617 in 2010. In the same period, the aggregated number of Chinese in refugee-like situation increased, from 190,369 in 2011 to 212,911 in 2016 (UNHCR 2015, 62).

In Italy, almost all Chinese asylum seekers mentioned religious persecution and their desire to be able to profess their faith freely as the reason for seeking protection. Many of them came from large urban centers, such as Beijing, Guangzhou, and Shanghai. There, the asylum seekers had good jobs and possessed a high level of education. Once they arrived in Italy, they continued their religious life, recreating prayer groups within spaces granted by some NGOs such as ARCI (Italian Recreational and Cultural Association) or by the reception centers. However, even during prayer meetings they rarely mentioned their past experiences and their precise religious affiliation to other Chinese living in Italy. NGOs report that they felt a strong sense of distrust towards their fellow countrymen and were afraid they may be spies ready to report them to the Chinese government (Rome NGO 2018). They did not discuss religious matters with strangers, and did not even show to others their residence permits. Another sign of this distrust is that they prefer translators who are not Chinese citizens when dealings with NGOs and with the Territorial Commissions (Rome Law Firm 2018).

When first interviewed by NGOs and, later, the Commissions, Chinese asylum seekers, especially the women, appear distraught and moved. It is the first time they psychologically must face and tell others the story of their escape from China (Rome Law Firm 2018). In the case of the refugees from The Church of Almighty God, the trip should be carefully planned, often secretly for fear both of being reported to the police and creating problems for those who will remain in China.

The visas are issued by specialized agencies. They often take advantage of people who want to leave China quickly and charge disproportionate fees, up to ten thousand euros. Since a large documentation is required for receiving a visa, which the applicant does not always manage to procure directly, the agency, which in some cases is owned by acquaintances, plays an important role as an intermediary.

According to my interviews, there were mothers who had left their children in China. To freely profess their beliefs, they were forced to sever all ties with members of their families, not to jeopardize their safety and their own. This is a moving, painful choice, where God is put first. However, the stories of these choices are often regarded as not believable by the Commissions. They do not understand how somebody can put religion above family. “God is stronger!” answered a girl when the Commission suggested that in China she could have simply prayed in private and hidden her faith (Rome Law Firm 2018).

Of course, members of The Church of Almighty God, even when identified and arrested in China, can always escape detention by persuading the authorities that they are ready to give up their faith and cooperate with the police. However, most refuse, as it has always happened in the history of religions and of Christianity, including among the first Christians. Believers know that they would be discriminated against in the workplace and in some cases even expelled from their own family (Rome NGO 2018). Others report that their universities, under government pressure, refused to give them a degree they were entitled to. And others could not continue school beyond the eighth grade. just because they were discriminated against for their faith (CAG Asylum Seekers 2018). Yet, they refused to give up—“God is stronger!”

Filing the Application

As for the presentation of the asylum application, those who decide to flee China in most cases do not know in advance where they will go. The destination is chosen only in the final phase of the travel planning. Therefore, information on the local laws is not collected in advance, and they do not know what to do when they arrive in Italy. As far as housing is concerned, some refugees stated that, once they arrived in Italy, they already had contacts to turn to. For example, they had the addresses of co-religionists, who would host them or direct them to

dormitories. Others, however, initially relied on the reception centers. Accommodation in dormitories allowed them to get in touch with other Chinese who, having lived in the city for some time, were able to provide useful information about services or how to find a job. This is the so-called “ethnic network,” which represents a very important immediate support after arrival. Networks are operative for all nationalities, but seems to be particularly effective for the Chinese (Rome NGO 2018).

This, however, is not always the case. Other Chinese refugees claim to have arrived on the Italian territory without previous contacts, or a network ready to help them. There is a Web site for Chinese in Italy, called www.huarenjie.net, also available through a mobile application. Through huarenjie.net, it is possible to rent an apartment or find jobs such as bellboy for a warehouse, waiter for a restaurant, or clerk for a clothing store, all in commercial establishments owned by other Chinese (CAG Asylum Seekers 2018). This is how many Chinese asylum seekers start their own experience in Italy and manage to survive. Some Chinese reported that they had to work without a contract due to the lack of a residence permit (Rome NGO 2018).

In the case of asylum seekers from The Church of Almighty God, two questions are often raised by Commissions and courts: why is the asylum application presented on average three months after arriving in Italy, when the tourist visa expires, or later, rather than immediately? And why do most refugees fail to apply for hospitality in a reception center? (Rome NGO 2018). In fact, there are answers to both questions. To the first, the timing is not significantly different from that found among other asylum seekers. Obtaining an appointment with the local Immigration Police Headquarters is not easy, and for refugees it may take a long time to file the application (Rome NGO 2018).

In the case of the refugees from The Church of Almighty God, an additional problem is that they do not know how the international protection exactly works in Italy. The information is not easily accessible. Most applicants claim they have received the necessary information only by chance or thanks to co-religionists who arrived in Italy and sought asylum prior to them (CAG Asylum Seekers 2018). Those who arrive in Italian ports by sea follow the hotspots procedure. In addition to photo-signaling and identification, they receive comprehensive legal information on the asylum system in Italy. The same situation is not found in the airports. There, it is theoretically possible to file an application for asylum

immediately upon arrival, but the corresponding information is rarely available. In fact, several questions are asked and answered in China when applying for a tourist visa. Those arriving at an Italian airport with a tourist visa are not asked further questions, nor offered information about asylum (Rome NGO 2018).

The Territorial Commissions

Asylum applications are granted or denied by Territorial Commissions, which pursuant to Art. 4 of Legislative Decree no. 25/2008, are administrative bodies established at the local branches of the Ministry of Internal Affairs, known as Prefectures. The Department for Civil Liberties and Immigration of the Ministry of Internal Affairs is responsible for the national coordination of the Commissions. The Ministry appoints the members of the Territorial Commissions and determines the territorial districts in which each Commission operates. Before a recent reform (discussed below), they included an officer of the Prefecture who acted as president, an official of the State Police, a representative of a territorial body (such as the local municipality), and a representative designated by the UNHCR. However, this composition of the Commissions did not really guarantee that the interview of the asylum seeker might take place, as Italian law mandated, “with due attention to the personal or general context in which the question [of asylum] arises, including the cultural origin or vulnerability of the applicant” (art. 15 of the regulations amended pursuant to Legislative Decree no. 119/2014, now called “Formation of Territorial and Staff Commissions”). There were no requirements for the selection of officials with specialized qualifications, skills and experience. The aim of the regulations was to provide the most competent evaluation possible, coming from a plurality of professional experiences. In fact, however, Commission members were rarely able to provide a truly professional and homogeneous evaluation. The absence of an adequate preparation of the Commission members damaged the applicants. Many applications by members of The Church of Almighty God were rejected for non-persuasive reasons.

In January 2018, the Legislative Decree no. 220 of 22 December 2017 came into force and radically changed the composition of the Territorial Commissions. Since July 2018, officers of the State Police and representatives of the local authorities are no longer part of the Commissions. Now, each Territorial

Commission is made up of professional members selected through public competition among candidates specialized in the field. Each Commission should include an officer of the Prefecture who acts as president and an expert in international refugee matters appointed by the UNHCR. However, some problems still remain. The new law specifies that the interviews may normally take place in the presence of only one of the Commission members, although chosen among those who have a specialized formation. The presence of all members is no longer required. Obviously, being interviewed by one Commission member only offers less guarantees to the refugee.

The key moment of the administrative procedure is certainly the applicant's interview before the Commission. There, the applicant has the right to expose in an exhaustive way the elements that form the basis of the request. Since the investigation deals with an extremely personal and delicate situation, the interview must take place in a non-public session, individually, objectively, and impartially.

A very important aspect of the interview is that the Commission should rely on precise and constantly updated information about the general situation of the country of origin, based on established and accredited sources (COI, "country of origin information"), normally from UNHCR or the Ministry of Foreign Affairs, or from other agencies and institutions for the protection of human rights operating internationally. If there is a need to investigate further, by law the Commission can avail itself of the support of experts for the purpose of a reasonable examination of the application. The experts may be consultants specialized in health, culture, religion, gender or children, depending on the topic the Commission needs to investigate.

Furthermore, with the consent of the applicant, the Commission can order medical examinations to ascertain the consequences of persecution or torture. As discussed above, the Commission cannot fail to consider the elements proving that the applicant has already suffered persecution, or direct threats of being persecuted. They are a serious indication that the fear of future persecution is well-founded. To reject the application, the Commission should conclude that the fear of persecution is not well-founded, and that the applicant does not run serious risks in case of return to the country of origin.

Once all the elements have been examined, the Commission takes a decision, thus putting an end to the administrative procedure. Three different outcomes

are possible. First, the Commission can accept the request and, consequently, grant the international protection, alternatively in the form of refugee status or in the form of subsidiary protection. Second, it may reject the application if it believes that the conditions for granting international protection are not met or the application is manifestly groundless. Third, despite its rejection of the request for international protection, the Commission (before the reform known as “Decreto Sicurezza,” discussed below), might still find that there were serious humanitarian reasons for accommodating the refugee in Italy. In this case, it would transmit the documents to the police so that a residence permit for humanitarian reasons might be issued.

Why the Commissions Reject the Applications

From the interviews I conducted with several lawyers of the Rome and Perugia courts, it came out that applications of members of The Church of Almighty God were consistently rejected for the same reasons. In the opinions issued by the Commissions, contradictions were found between the stories as told in the interviews and the written documents (the so called “news sheets”) originally filed by the applicant explaining the reasons for leaving China and the dangers in case of return. The parts of the stories where applicants explain how they managed to obtain a passport are regarded as particularly problematic.

Second, the Commissions compare the narratives of the applicants to the COI and find an inconsistency of the statements with respect to the news acquired from Refworld.org, concluding that the facts are not credible and contradictory. Also based on the COI, some Commissions emphasize that the applicant’s statements reveal only a partial knowledge of the principles and theology of The Church of Almighty God. Finally, some Commissions believe that there is no serious risk for the applicant in China.

In summary, the reasons most frequently mentioned by the Commissions for their negative decisions refer to four factors, First, a lack of credibility of the statements provided by the applicants, perceived as vague and contradictory. Second, an alleged lack of sufficient knowledge of the history and theology of The Church of Almighty God (that the Commissions presume to know through the COI). Third, the Commissions do not believe the applicant’s stories with regards to how a passport and visa were obtained (Zoccatelli 2019). Fourth, some

Commissions believe that in case of a return to China, the risk to suffer serious harm is low, so that even subsidiary protection is not granted. Lawyers filing appeals on behalf of refugees point out that the latter comments are paradoxical, since international organizations and NGOs are unanimous in describing a situation of religious persecution in China (USCIRF 2019). It is also obvious that The Church of Almighty God is a primary target of this persecution (Introvigne 2019b). When this was not recognized, even the mildest form of protection, the (no longer existing) humanitarian one, was not granted.

Appealing the Negative Decisions: Lawyers and Judges

In the opinion of the attorneys dealing with the appeals I interviewed, the Commissions, in carrying out their examining activity, were extremely superficial. Although the law calls for an extensive investigation and collection of documents, and in-depth study of each case, this in fact does not happen. Another problem the lawyers noticed is that the Commissions adopt a Western way of thinking, which makes understanding stories told by Chinese refugees very difficult. Rather than objectively, these stories are assessed through “Western glasses” (Perugia Law Firm 2018). One example is that refugees of The Church of Almighty God may claim that they have been arrested but no record of their arrest was entered into the national computer data base, for different reasons (including corruption of the police officers, who may release those arrested without recording the arrest, if relatives pay a sum of money that they will pocket). This is important for the passport question. If there is no record of a previous arrest, there is no obstacle in obtaining a passport. This is part of a general phenomenon of corruption in China, which by the way also allows some whose arrest *has* been recorded to get a passport. However, the Commissions do not believe these stories, as failing to record an arrest would be impossible in the Italian police system (Perugia law firm 2018).

All the lawyers interviewed expressed the view that they are persuaded that the stories of persecution and torture told by their clients are very much real, yet they are difficult to prove. Commissions and judges request that torture is certified by a specialized doctor. Not only refugees may lack the resources to submit to such specialized exams, but torture does not always leave tangible signs on the body. Being submitted to sleep or food deprivation, or being compelled to stand up for

hours, does not leave visible signs, particularly months after the events. Therefore, it seems unreasonable to demand tangible proofs of torture (Rome Law Firm 2018).

Originally, lawyers filed with the courts documents by NGOs such as Amnesty International and ChinaAid detailing religious persecution in China in general. My interviews confirmed that, when first approached by the refugees, lawyers had never heard of The Church of Almighty God and were only vaguely familiar with the situation of religion in China, and how the groups listed as *xie jiao* were persecuted in a particularly harsh way. In order to proceed with the appeals, they needed to study matters they were not familiar with, contact scholars of religion and sinologists, read articles and sometimes books. Even after all this study, their knowledge varies from lawyer to lawyer and still appears to be incomplete.

Scholars, in turn, were often frustrated when they learned that the Commissions and the courts (particularly, in decisions rendered in Milan), when confronted with academic studies of The Church of Almighty God published by reputable scholarly journals and presses, still regarded them as carrying the same, or even a minor, weight than the COI available through the UNHCR data base Refworld, most of them dating back to several years ago and including serious mistakes. I understand that, at the time of this writing, an effort is being made at the international level to produce and include in Refworld new and more reliable COI about The Church of Almighty God. So far, however, they have not yet been published, and in Italy we still find cases where refugees are accused of not knowing the theology of their own Church because their answers do not correspond to what the Commissions and the Courts find in the COI. However, refugees are right, and the COI are wrong (Šorytė 2018).

Finally, both NGOs and lawyers recommend that refugees should be assisted by experts when preparing for the interviews. This would allow them to better tell their stories. Of course, this is a problem common to most refugees (Rome Law Firm 2018).

The “Decreto Sicurezza” (2018)

While I was conducting my interviews for this article, on November 2, 2018, the Italian Parliament approved the Decree-Law 840/2018, the so-called

“Decreto Sicurezza” (Security Decree). The new law introduced reforms that radically changed the regulatory framework on asylum, immigration, citizenship, and security.

The Decree also deals with matters outside the purpose of the present study. As far as the situation of asylum seekers is concerned, a first crucial aspect of the Decree is the repeal of the provisions about humanitarian protection. Before the new law, humanitarian protection represented the category of protection more easily accessible to asylum seekers, including the Chinese refugees fleeing religious persecution. Protection was granted based on “serious humanitarian reasons, or those resulting from obligations constitutional or international law imposes on the Italian state.” It was also available to those fleeing wars, natural disasters, or other particularly calamitous events.

The humanitarian protection was recognized to those who could not be expelled, because they would face persecution in their country of origin, as well as to victims of labor exploitation or human trafficking. In all these cases, the humanitarian permit was different from asylum or subsidiary protection. The duration of humanitarian protection was variable, from six months to two years, and was renewable, as well as convertible into a residence permit for work, although the right to family reunification (i.e. to be joined in Italy by spouses or children) was not included.

With the coming into force of the “Decreto Sicurezza,” humanitarian protection can no longer be granted, neither by Commissions nor by courts of law. What is left, instead of humanitarian protection, is a residence permit for a maximum duration of one year to be granted in some “special cases,” including for victims of domestic violence or serious labor exploitation, for those who need medical care in Italy because they are in a seriously compromised state of health, or for those coming from a country that is in a situation of “contingent and exceptional calamity.” At last, a residence permit is provided for those who, after they entered Italy have distinguished themselves for “acts of particular civil value.” This last permit has a duration of two years, and can be renewed. Religious persecution is included among the circumstances allowing for a “special” permit to be granted.

Furthermore, pursuant to article 3, the Decree modifies the maximum time during which asylum seekers and immigrants may remain in hotspots and first reception facilities. This is only the period needed to ascertain their identity and

citizenship. This provision also applies to minors who are part of a family unit. Article 4, finally, provides that irregular immigrants can be detained by the customs in their offices at the Italian borders, if there are no places available in the detention and repatriation centers (CPR). For this, a request by the provincial chief of the police (questore) and the authorization of a justice of the peace are required, pending the implementation of the repatriation procedure, for which the allocation of more funds was recommended by the Decree.

With the entry into force of the Decree, it is also easier to lose the already granted status of refugee or the supplementary protection. Protection will be lost in case of convictions for threats or violence to public officials, serious issues of violence to other citizens, and involvement in female genital mutilation practices. The request for protection may also be suspended, when the applicant is subject to pending criminal proceedings for one of the crimes that would result in the refusal of asylum in the event of a final conviction. Furthermore, if the refugee returns to his country of origin, even temporarily, both asylum and subsidiary protection may be easily lost. For the cases of criminal proceedings or convictions, article 10 of the decree introduces urgent proceedings before the Territorial Commission, for which a possible appeal has no suspensive effect. Therefore, the asylum seeker can be immediately expelled.

Another substantial change concerns the System for the reception of asylum seekers and refugees, the SPRAR, which will be downsized and limited to holders of international protection or unaccompanied foreign minors. The other applicants will be hosted in the Extraordinary Centers (CAS) and in the Reception Centers for Asylum Seekers (CARA).

Conclusions

In Italy, the phenomenon of Chinese asylum seekers for religious reasons is comparatively recent. In itself, this is a factor making Italian authorities suspicious. The first large waves of asylum requests by Chinese in Italy were recorded in 2015, coinciding with two important international events, the World Expo in Milan and the Roman Catholic Jubilee in Rome. Some believe this is not a coincidence, because the two events made it easier to obtain tourist visas to Italy in China, as elsewhere. The problem, however, is that these easily obtainable tourist visas were used by both asylum seekers and migrant workers trying to

enter Italy for purely economic reasons. The authorities, thus, suspected that some asylum seekers were just pretending to be at risk of religious persecution, but were in fact just illegal economic immigrants (Rome NGO 2018).

Another reason made the authorities suspicious. With the so called Flow Decrees of 2014 and 2016, obtaining a permit to stay in Italy for temporary or seasonal work became much more difficult. Authorities came to believe that some Chinese economic immigrants came to Italy and claimed to be victims of religious persecution to obtain humanitarian protection, understanding that a humanitarian permit can later be converted into a working license (Rome NGO 2018). This explains the high number of negative decisions against Chinese asylum seekers by Commissions, although it seems unfair to argue that stories of religious persecution are all false (Rome NGO 2018).

In fact, Chinese asylum seekers from The Church of Almighty God did not come all from the same region. Some resided in China in large metropolitan centers, including Beijing and Shanghai, where they had well-paid and prestigious jobs. Some were university graduates and spoke fluent English, to the point of not requiring an interpreter. Others came from small urban centers, carried out more modest activities, such as hairdresser or decorator. Some had chosen to devote themselves full-time to preaching their faith or leading prayer groups (CAG Asylum Seekers 2018). This heterogenous social and geographical origin is *not* typical of economic migrants disguising themselves as refugees. In fact, it contributes to confirm that, in the case of Church of Almighty God refugees, the stories they tell are true and the request for asylum is well-founded (Rome NGO 2018).

Some of the lawyers I interviewed, who had handled multiple cases of refugees from The Church of Almighty God, also reported to me that some Italian authorities they preferred not to name, although not putting this in writing, told them that the high number of young female applicants made them suspect that religion-based asylum application may in fact disguise a human trafficking of sex workers (Perugia Law Firm 2018). This is not unheard of in Italy in the case of other (false) refugees, including some from China. However, in the case of The Church of Almighty God refugees, the same sources told me that the possibility was investigated, and no evidence whatsoever of sex trafficking emerged.

A main problem for refugees is to prove that they are indeed members of The Church of Almighty God. The multiple publications by scholars and journalists

now often persuade the courts, if not the Commissions, that The Church of Almighty God is indeed targeted by religious persecution in China. Yet, the courts (again, particularly in Milan) often conclude that, even if The Church of Almighty God is persecuted, there is not enough evidence that the applicant is a bona fide member of that Church. The problem is how to prove it. One can hope that, if COI improves, interviews based on faulty COI will become a thing of the past. However, the problem of certifying to the satisfaction of the authorities that the refugee is indeed a member of The Church of Almighty God will remain. Obviously, it is impossible to obtain a certificate from China, where the Church is banned and operates underground. No comprehensive records about Church members are kept in China for security reasons. Members are often identified by religious names and pseudonyms, and may even be known to the police under their assumed names only (CAG Asylum Seekers, 2018).

There are two problems here. First, how can The Church of Almighty God ascertain that somebody is really its member. Second, how can the Commissions and courts be sure that documents certifying this membership are authentic. Both Church of Almighty God devotees and scholars (Introvigne 2019b) believe that the Church has in fact a highly effective and complex organization. Members are known to leaders of the local communities in China. These leaders can be effectively, if clandestinely, contacted from abroad, putting leaders in the diaspora, including in Italy, in the position to come to solid conclusions about who is a member and who is not. It is also a fact that Church of Almighty God members use a jargon and are aware of religious insights and practices that it would be very difficult for an outsider to imitate, even after a careful study of the Church's publicly available literature and Web sites.

Accordingly, we can conclude that the leaders of The Church of Almighty God outside China may assess in a reliable way that a certain refugee is really a member of the Church. How can they certify it in a way that Commissions and courts may regard as acceptable? Initially, asylum seekers gave to the lawyers a very short letter certifying that they were members of The Church of Almighty God, issued by the Church's organization in New York. In Perugia, lawyers reported that the fact that these letters used all the same words led the courts to conclude that they were false. Lawyers started keeping the envelopes to prove that they in fact came from New York (Perugia Law Firm 2018). Similar problems occurred in Rome and Milan (Rome NGO 2018).

The fact that a letter came from New York, however, did not prove that its content was true. Later, letters attesting that an individual asylum seeker was a member of The Church of Almighty God started to be issued by the Church's branch in Rome. It was objected that there was no evidence that the Rome Church was affiliated with the New York Church, which the latter in turn attested.

Still, an obvious uneasiness remains in the courts when they are confronted with assessing the evidence that somebody is really a member in good standing of The Church of Almighty God. It is clearly possible that some may falsely claim to be a member. However, once a duly constituted branch of the Church abroad attests to the fact of the membership, it seems unreasonable to doubt that this is true. Sometimes, if the certification is too simple and short, it is claimed that it is not believable, and if it is too detailed, that it is "too well done" and prepared with the sole aim to support the asylum requests. This places an impossible burden of evidence on the refugee.

As previously mentioned, in Italy there is still no organic law on the right of asylum. There is no structured reception system, and an emergency management perpetuates itself. Policies and decisions are clearly influenced by economic problems and the general European attitude hostile to refugees. Although lip service is paid to international conventions and agreements protecting fundamental human rights, laws are continually modified in a more and more restrictive way.

The attitude of the Territorial Commissions does not always appear to be neutral and impartial (Rome Law Firm 2018). The percentage of asylum requests accepted is decreasing, and it is difficult to believe this is not connected with the political situation, although the result is that more and more refugees simply go into hiding. As I mentioned, before the new Legislative Decree no. 220/2017, the composition of the Territorial Commissions did not guarantee that they might be able to correctly fulfill the tasks entrusted to them by the law. All my interviewees, both lawyers and refugees, lamented that the Commissions were not well prepared to understand the asylum seekers. The law provided for the possibility of using specializing consultants, but in fact this did not happen, and it seems lack of funds was not the main reason (Rome Law Firm 2018). Lawyers expressed a cautious optimism about the effects of the new law, which should gradually introduce better prepared members as part of the Commissions.

There has also been a willingness at the national level to cooperate with

scholars and provide these new Commissions members with information on asylum seekers from little known groups, including The Church of Almighty God. The role of scholars should not be underestimated. There is a growing body of scholarly studies about The Church of Almighty God, and it may be hoped that Commissions and courts will rely more and more on them in the future, rather than on fake news circulating on the Web (Introvigne 2018). Refugees should also realize that information on The Church of Almighty God self-produced by the Church itself is often rejected by Commissions and courts as self-serving evidence, while works by scholars are regarded as independent and taken more seriously.

Ultimately, however, refugees should also help themselves. They should take time trying to understand the Italian law and system, and what parts of their stories are interesting for the Commissions and should be mentioned in the interviews. They cannot do this alone, and need to be assisted by different experts (Perugia Law Firm 2018). For example, forensic doctors would be useful when the presence of visible torture wounds may be certified. And anthropologists may be called in to bridge the cultural distance between East and West, a question of greater complexity for the judges.

But what about the new Security Decree? Its effects are vigorously debated in Italy. The elimination of humanitarian protection is regarded by some legal experts and NGOs as being against both the Italian Constitution and international treaties Italy has signed. A special criticism is that the “special cases,” in which a form of protection similar to the old humanitarian one may still be granted, do not include the risk of torture in the home country and the impossibility of exercising there the basic rights guaranteed by the Italian Constitution and the international treaties, including the right to religious liberty.

There is no doubt that the new Decree has been unfavorable for the asylum seekers from The Church of Almighty God. Before the Decree, several of them were granted humanitarian protection, a possibility that has now disappeared. Worse consequences may come in the future. Article 7-bis of the Decree calls for the establishment of a list of “safe countries of origin,” where in principle there are no serious risks of persecution or torture. Some lawyers have expressed concern about the possibility that China may be included in this list, because of political reasons and the fact that Italy joined the Belt and Road Initiative (Perugia Law Firm 2019). Asylum seekers coming from a country listed as “safe” will not

be automatically denied protection, but will face a very high burden of proof. NGOs and scholars have observed that including China in the list of “safe countries of origins” in Italy would be paradoxical, considering that international organizations continuously denounce its violations of human rights and religious liberty (USCIRF 2019).

Lawyers and NGOs are both concerned and unhappy about the Decree. It is, however, comparatively recent, and it is too early to assess its effects. Very often in Italy case law has preceded the Constitutional Court in interpreting questionable provisions in a way more favorable to human rights. The impression by some refugees that, after the “Decreto Sicurezza,” it is impossible to be granted asylum in Italy is psychologically understandable, but wrong. While in its recent decisions the Court of Milan has consistently rejected asylum requests from members of The Church of Almighty God, other courts such as Perugia, Rome, or Florence continue to grant at least some of them.

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