



*Research article*

## **Pilgrimages: Law and Culture in Multicultural Societies**

**Maria Luisa Lo Giacco \***

Department of Law, University of Bari Aldo Moro, piazza C. Battisti n. 1, 70121, Bari, Italy

\* **Correspondence:** Email: [marialuisa.logiacco@uniba.it](mailto:marialuisa.logiacco@uniba.it); Tel: 39-080571-7172, 39-347658-0645

**Abstract:** Pilgrimage is an age-old way of expressing one's religious faith through a collective religious ritual that can be found throughout the ages and among all peoples. Pilgrimage is, however, also an institution regulated by precise rules. In fact, there is a real and very ancient regulatory system whose rules have gradually been established over the centuries. The pilgrim who nowadays goes on the road to Santiago de Compostela, Rome, Jerusalem or Mecca is often unaware that he's following in the footsteps of generations of believers who have gone this same route. This tradition has led to the creation and development of rules and legal norms, not only in the religious laws, but also in European law. Pilgrimage to Jerusalem was a duty for Jews up to 70 A.D., the year of the destruction of Solomon's Temple. In Islamic tradition, the pilgrimage to Mecca, at least once in a lifetime, is a duty, one of the five pillars of the faith. Finally, while not an obligation, pilgrimage has been a ritual for Christians since ancient times, regulated by canon law. Every year millions of people all over the world make a pilgrimage. Aware of the cultural, but also economic, richness of pilgrimages, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has included among the world heritage sites to be protected many shrines and pilgrimage routes and destinations. The Council of Europe considers the pilgrimage routes as European cultural routes. Pilgrimage is generally studied from either a historical or sociological perspective while this paper deals with the subject from a legal point of view, and this is a novelty. Its aim is to demonstrate that pilgrimage is not only a social but also a juridical phenomenon. Pilgrimage is different from other kinds of travel, including religious tourism, and for this reason pilgrimage is regulated by law.

**Keywords:** pilgrimages; pilgrimage routes; regulatory norms; religious laws; cultural routes

---

### **1. Introduction**

Pilgrimage is a collective act of worship that worldwide involves millions of believers from different religions. Every year about two million Muslims go to Mecca and about five million Catholics go to Lourdes, a small town on the French Pyrenees which is an important European pilgrimage site. This year the Catholic Church celebrate a jubilee, and since December 2015 more than seven million pilgrims have reached Rome. In 2011, over six hundred thousand devout Hindus

went on a pilgrimage to the Amarnath cave in the Himalayas. These are just a few examples of the great phenomenon of pilgrimage. Each year, all over the world, millions of people set out for religious reasons. We may say that pilgrimages are an example of the new role of religions in global society.

Pilgrimage to a sacred place shows the individual's desire for an identity. Women and men, bewildered in the globalized society, seek shelter in traditional religious rituals. Globalization can lead individuals to find their own identity by practising a religion in that religious affiliation gives the identity that was formerly found in belonging to a territory [1]. Pilgrims are the people who best show the characteristics of religions in our times [2]. Another feature of the pilgrimage is to seek to answer today's need for security of women and men, with reasons such as illness, unemployment and problems in relationships as to why millions of pilgrims set off for holy places [3].

Pilgrimage is not a spontaneous phenomenon, but it has a real and very ancient legal status which has been created through the centuries. The pilgrims who nowadays go on the road towards Santiago de Compostela, Rome, Jerusalem or Mecca, are often unaware that they are following in the footsteps of previous generations of believers who have gone before. Monotheistic religions, born in the Mediterranean area, have movement, nomadism and pilgrimage in their genetic heritage [4]. The Bible of the Jews is the revelation of God to his nomadic people; Christianity is the religion of the followers of a God who walked among his people from when he was a child; Islam is born among the nomads and merchants of the Arabian peninsula and, from the very beginning, prophet Muhammad listed pilgrimage among the duties of a good Muslim, one of the so called "five pillars of faith". These are the three Abrahamic religions because they assert that Abraham is the father of all believers, and Abraham was a nomadic shepherd who left his land to follow God's orders.

Pilgrimage was also practiced by pagan peoples in ancient times, and is deemed important by many contemporary religions, such as Buddhism and Hinduism [5,6].

The aim of this paper is to show that pilgrimage is not just a social phenomenon, or a particular way of travelling, but that it is also a juridical institution. Any historical-juridical investigation will show that during the Middle Ages pilgrimage was well regulated by law with pilgrims being accorded special respect and treatment.

Making a clear distinction between pilgrimage and a simple journey has a practical effect. In fact, if we consider pilgrimage as an expression of religious freedom, we must also have laws that protect pilgrimage and pilgrims. In other words, I want to prove that pilgrimage is one way to express a person's religious freedom and for this reason, lawgivers cannot consider it to be like other journeys. The lawgivers of the Middle Ages were aware of this important role of pilgrimage and thus they enacted laws in order to protect pilgrims.

The methodology is based on historical and sociological studies on pilgrimage in monotheistic religious traditions. There are still very few juridical studies on pilgrimage, and most of them comment on Christian pilgrimages in the Medieval age or on the Islamic compulsory pilgrimage to Mecca. Otherwise there is the author's book published in Italy in 2008 with the title "Pellegrini, romei e palmieri. Il pellegrinaggio fra diritto e religione" (Pilgrims, Romans and Palmers. Pilgrimage, law and religion).

So, I have investigated the regulatory norms of pilgrimage from history including the Decretals, the Carolingian and Merovingian laws, the North-European medieval communesses' laws, and Islamic law handbooks.

My research runs across the centuries, looking at pilgrimages in different religious traditions. Successively, I discuss the role of pilgrimage in European identity building. In the Middle Ages, pilgrimage became a social and religious phenomenon in which lawgivers were highly interested. In

modern history, however, pilgrimage went through a crisis with the end of European religious uniformity being a major factor. In contemporary Europe, pilgrimage again is playing a leading role among what can be defined as the ingredients which make up European culture, with both European Institutions and UNESCO giving great attention to pilgrimages and pilgrims.

Pilgrimage is not an ordinary social phenomenon, but has to do with individual and collective religious freedom, and lawgivers must give it the attention it deserves.

## 2. Pilgrimage in the Jewish Religion

In the Jewish tradition, pilgrimage appears as an obligation given by Moses. Through Moses, God said to his people to go to the Jerusalem temple to honour him three times a year. Therefore, for Jews it was mandatory to make a pilgrimage to the Jerusalem temple, because in the temple they could stand in God's presence. Pilgrimages were made during the main Jewish holidays, especially during the Passover, according to the precept of God. It is estimated that during the first century A.D. the Passover attracted approximately two hundred and fifty thousand pilgrims to Jerusalem. It was a huge amount of people if we consider that at the time the town had only about fifty thousand inhabitants. The Roman occupation had made the streets relatively comfortable and safe, and this encouraged pilgrimage which was also a way of affirming the Jewish national identity. However, riots and rebellions against the power of Rome did often occur during the pilgrimage as it was not only a religious but also a political event, showing to the foreigners the unity of the people. Jewish pilgrimage was ruled by strict regulations regarding purity, a condition which all the pilgrims had to be in, otherwise they could not enter the temple and so take part in the ritual sacrifices. Rabbis had established the rules that guarantee purity. In the city separate routes reserved to pilgrims were established and a law stated that, during the period of the celebration, the whole city of Jerusalem was pure. Pilgrims had the obligation to offer to the temple the first fruits of the land, and, because many stayed for extended periods of time, special accommodation was built for them, while particular laws regulated the rental of homes to pilgrims and controlled their stay in Jerusalem [7].

This mandatory pilgrimage ended with the destruction of the temple that occurred in 70 A.D., when the duty to go as pilgrims to the temple and to make offering to God became meaningless. At the same time, voluntary pilgrimages to other holy sites became difficult. Not only did pilgrimage end but the destruction also caused the end of the priestly caste, which had exercised its hierocratic power over the whole society until then. This was the end of Jewish political unity, which was built around the temple [8]. Over the following centuries the nostalgia for the temple also meant nostalgia for the political unity of Jewish people. Though the pilgrimage was no longer made, desire for it remained. Even today Jews cannot access the site where the temple stood, but after 1967 the pilgrimages to Jerusalem started again, in order to visit the town and to pray against the Western wall, the nearest point to the temple site itself. In 2013 around a million Jews travelled to Jerusalem.

## 3. Pilgrimage in Islamic Law and Religion

Pilgrimage plays a very important role in the Islamic faith. Muslims are obliged to fulfil some obligations that are prescribed by Islamic law. These duties are known as the "five pillars" and they are the profession of faith (*shahada*), the ritual prayer five times a day (*salat*), the alms-giving (*zakat*), fasting during the month of Ramadan (*sawm*), and the pilgrimage to Mecca at least once in a lifetime (*hajj*) [9]. This ritual pilgrimage must be done during the sacred month (*dhu al-Hijjah*), though it is possible to visit Mecca all year round for a minor pilgrimage (*umra*).

Prophet Muhammad renewed a pre-existing tradition of nomadic Arab tribes who went every year to Mecca to adore the “black stone”, to trade and to carry out transactions. A truce was established during that time with any act of violence being forbidden. Muhammad removed the pagan aspects and converted it into an act of submission to the only God [10]. Muhammad was born in Mecca, but that’s not the reason why believers must go there; the reason is that God ordered the visit to *Kaaba*, the cube that keeps the black stone, left there by Abraham the day he left his son Ismael with his mother Hagar [11]. This pilgrimage to Mecca, followed by about two million pilgrims annually from all over the world, does not aim to seek miracles or God’s favour, but to follow the steps of prophet Muhammad and to show believers total submission to God’s will. Islamic pilgrimage is strictly regulated by rules written in the Holy Quran, which must be observed from well before the pilgrims come to Mecca. Islamic legal texts spend many pages specifying rituals and rules that the pilgrims must comply with, otherwise the pilgrimage will be void.

The first issue concerns people who are mandated to be pilgrims: every man, who is adult, free, in good health, who has the money for the trip and to support his family during his absence from home. A further requirement is that the routes must be safe, namely practicable without putting people in danger [12]. Women must be accompanied by their husbands or other men of their family and they are not obliged to leave if during the trip separate accommodation for women is not available. Children cannot be pilgrims, but they may travel with their parents or guardians, and to fulfil their obligations they must make the pilgrimage again as adults. Those without the actual money must leave if they work at a trade that enables them to maintain themselves during the trip, while those who are offered a donation to make the pilgrimage are obliged to leave, if they accept the donation. Those who cannot make the pilgrimage for health reasons may delegate another person through the drawing up of a contract which specifies how the substitute, named *badal*, must carry out the pilgrimage, travelling in the manner prescribed by the person who gave him the task and using the money without wasting it, giving back what remains. An obligation to pilgrimage may also be fulfilled by designating a proxy in a will though whoever makes the pilgrimage must have previously fulfilled the obligation for himself [13].

The pilgrimage begins before the departure to Mecca. The pilgrim must make his will, provide for his family, settle his debts and donate to the poor a sum of money equivalent to that he will spend during his trip. These preparations reveal that who is arranging everything for the pilgrimage enters into a sacred time and an exceptional condition. When arriving at the boundary of Mecca, pilgrims must also prepare their body to become pure and consecrated (*ihram*), these places, called *miqāt*, are located on the ancient streets of the caravan routes and they are *al-Juhfa*, for pilgrims coming from north Africa and Syria, *Dhāt ‘Irāq*, for those coming from Iraq, and *Dhu’l-Hulayfa* for those who start the journey from Medina. First of all, pilgrims take a ritual bath (*ghusl*), then cut their hair, moustache and nails. After the bath, the pilgrim raises a special prayer to God, the *talbiyya*, then he puts on the clothing of the pilgrimage that consists of two new white seamless garments, one of which covers the hips and the other the shoulders. Women should wear simple dresses covering the whole body, but their face should be uncovered, though according to some legal scholars, women can wear a veil covering their face, but in this case they should wear a mask between the veil and the face. Any types of ornament and perfumes are forbidden. The pilgrims have to wear sandals and have their head and hands uncovered [14].

From now on, pilgrims are *muhrim*: they cannot fish or hunt, they cannot get married, and if they do so the marriage is null and void. These prohibitions confirm that the pilgrimage is a holy time in which the pilgrim must be free from cares and concentrate on prayer. When they reach Mecca, pilgrims must walk praying around the *Kaaba* seven times and every time they pass the black

stone they must touch or kiss it, and if they are too far from it, at least point to it. During the turns around *Kaaba*, called *tawāf*, pilgrims pray and invoke God, then they recite two other prayers facing toward the place where, according to tradition, Abraham prayed and, if possible, they must touch the black stone once again. Having finished this first part of rites, they must run seven times between the hills of Safa to Marwa, commemorating Hagar looking for water for her son Ishmael. On the seventh day of the *dhu al-Hijja* month, during the great sermon in the Mosque, pilgrims are reminded of the duties inherent to their status and the following day, they travel to the Arafat plain. Pilgrims sleep out in the open for a night and the next day a great prayer raises from Arafat plain during which pilgrims get another sermon reminding them what Muhammad has ruled. After sunset of the ninth day, the pilgrims leave the Arafat plain and hurry back to spend the night in Muzdalifa, a small holy town within the Mecca boundaries. The next day they travel to Mina where they throw seven small stones against three pillars to keep the devil at bay, meaning that pilgrims disavow evil. This day is also called the “feast of sacrifice” because animals are sacrificed in memory of Abraham's sacrifice. The pilgrims eat the flesh and what remains is offered to the poor. At the end of the feast pilgrims can cut their hair: they are no longer *ihram* and they put their pilgrimage clothing in a special box. Before leaving homeward, the believers often go to Medina to visit Muhammad's tomb which is kept inside the great mosque: this visit is however not a duty for the pilgrims. Other pilgrims come to *Zamzam* fountain that, according to the tradition, miraculously gushed out to quench Agar's and her son Ishmael's thirst [15–18].

Before they go home, pilgrims often do one more turn around the *Kaaba*, the so called farewell *tawāf*. A person who has made a pilgrimage to Mecca enjoys of special respect within his religious community and if he wishes he can add the title *hajj* to his own name, thus everybody can know that he has fulfilled the koranic obligation [19].

In Islamic tradition we can also find the custom of doing other types of pilgrimages to places and buildings devoted to the local cult of some pious person that in his life distinguished himself for his faith, or toward the graves of imams to which the Sciites are especially devoted. The Islamic religion remembers and worships some “saints”, people to be emulated because they have lived a faultless life and often, on their graves, mausoleums, mosques and shrines have been built. These holy places can be pilgrimage sites not only for the Muslims but also for the Christians in the lands of secular cohabitation among the two religions [20]. The pilgrimage toward these shrines is performed according to a ritual that imitates that of Mecca: for example, the pilgrims make some turns around the grave of the “saint”. A characteristic of Islamic pilgrimages is that during them the differences between men and women are put aside: that is why orthodox censors criticize the mixed nature of pilgrimages that can become occasions for promiscuity [21].

#### 4. Christian Pilgrimages

The custom of visiting some very important places became widespread among Christians of the first centuries, particularly Jerusalem and Rome. Eusebio from Caesarea described the pilgrimages to the Holy Land of believers that wanted to see with their own eyes the places where Jesus had lived. Beginning from the second century, believers became pilgrims to Rome, visiting and praying on the graves of the apostles Peter and Paul [22,23]. Saint Jerome, who retired to Jerusalem and there translated the Bible, wrote that a journey to Palestine could be useful to better understand the Scriptures [24–26], though often, in the first few centuries, Christian pilgrimages stemmed from the curiosity and from the desire to see places referred to in the Bible and not from devotion or penance [27].

The number of pilgrims was limited before emperor Constantine's conversion but exploded thereafter and after the building of two large churches, one in Jerusalem over Christ's sepulchre and the other in Rome over the grave of the apostle Peter. Christianity had become *religio licita* and believers could freely organize public religious events and go on a pilgrimage [28]. Emperor Constantine's promotion of the pilgrimage to Jerusalem also had a political scope in that the Roman empire was splitting in two parts, Eastern and Western, and he hoped to keep it united through the unifying strength of the new religion. Often pilgrimages have had a political importance [29], including that to Rome as it showed submission to the Roman pontiff. Pope Damasus, at the end of fourth century, supported the movement of pilgrims, especially during the feast of the apostles Peter and Paul. Prudencio, a Spanish poet, described in his works in 405 a pilgrimage to Rome and he first used a definition that in the following centuries would become a norm, that is the visit *ad limina apostolorum* which draws its historical origin from the custom of bishops going in pilgrimage to Rome as a sign of unity between the local churches and the universal church. The Decretum Gratianum stated that such visit had to be taken every year by bishops living near Rome, more rarely by the others. So, a spontaneous pilgrimage became an important part of Canon Law which is still extent [30,31].

Pilgrimages are considered as one of the factors that led to the Christianisation of the Roman empire. To travel, pilgrims used the Roman roads and they moved in groups because roads were not always safe, stopping in inns and taverns that were dangerous and promiscuous places. Therefore, beginning from the fourth century, the Church took on the task of protecting pilgrims. Religious authorities built guesthouses for pilgrims along the major routes, and the monks opened the doors of the monasteries and built guest-quarters for the travellers. Those buildings, called *xenodochia* in ancient Greek and *hospitia* in Latin, were inspired by the pagan custom of building dormitories for those who went to temples and shrines [32–34].

Before going back home, pilgrims wanted to take a relic with them, and if it was not possible, they would place objects and pieces of cloth onto the graves of saints, so that they were made holy by contact with the relics of the saints or of the martyrs [35]. The veneration of saints and of relics grew so much that in 787 the Council of Nicaea established that every bishop, before consecrating a church, had to put a relic at the base of the altar. In this way, every church could become a place of pilgrimage and the presence of the relics of a highly venerated saint allowed poor and unknown towns to become wealthy places [36]. This growth in local pilgrimage in alternative to traditional pilgrimage to the Holy Land and to Rome was driven by the political instability and the perils of the journey which had come about in the seventh century. The number of pilgrims to these important places kept falling, while other Western destinations such as Tours, Mont-Saint-Michel, Santiago de Compostela, became important. The Merovingian and Carolingian kings fostered the local cults, so encouraging the autonomy of the new churches independent of Roman control. Once again pilgrimages showed a political aspect.

In the same period, beginning from Ireland, penitential pilgrimages started to spread over continental Europe. The penitential books established the pilgrimage punishment in murder cases and in case of bishops who had not fulfilled the obligation of celibacy [37].

## **5. The Golden Age of Pilgrimage. The Medieval *Lex Peregrinorum***

Throughout the Middle Ages going on pilgrimages was a widespread European religious practice. The pilgrims' routes were an instrument which strengthened the unity of Christianity in

times when the Western world was transforming itself, dividing itself up into many different kingdoms [38].

In the Carolingian period pilgrimages experienced a golden age. According to tradition, Charlemagne himself made many pilgrimages and during his most famous trip to Rome, he was crowned Holy Roman Emperor by pope Leo the third, on Christmas day of the year 800 [39].

In the same period, in Galicia, the tomb containing the remains of Saint James the Great was rediscovered and its location, Santiago de Compostela, became the destination of many pilgrimages from all over Europe, giving rise to a phenomenon that contributed to the forming of Western civilization and which has left its mark on European towns, art, literature and folklore [40,41].

Before leaving the pilgrims had to undergo a ritual, leaving off their everyday clothes and putting on a large cloak (the pelerine) and taking up the pilgrim's staff and the knapsack, while later a broad-brimmed hat was added. The pilgrims were solemnly blessed during a service that included the blessing of the objects that they would take with them, each of which had a symbolic meaning. Each pilgrimage also came to be associated with a particular object which the pilgrim would wear or carry on his clothes, for example the oasis of Jericho palm for those who had been in the Holy Land, the traditional image of Christ's face for those who had been in Rome, the scallop shell for those who had been in Santiago de Compostela. A name was also given to the pilgrims according to the destination of their trip, the word pilgrim actually being that for a pilgrim to Santiago, while palmer was used for those who had been to the Holy Land and romer for visitors to Rome. Traces of these names remain in many surnames, and more formally in the Islamic world with the title of *hajj* [42].

Sometimes medieval wills obliged the heirs to make a pilgrimage for the soul of the deceased and, if the heir had to personally go, the will could also impose a penance such as going barefoot. However, generally the obligation could be fulfilled by sending a proxy, this being called a vicarious pilgrimage. In this case the pilgrimage often lost its religious meaning and became a simple economic obligation. The vicarious pilgrims could become professionals over time with a solid reputation and being of at least the same social level of the person that had recruited them. It is interesting to note that being a professional pilgrim was a custom that spread also among Muslim believers. Around the ninth century the pilgrimage to Mecca had become dangerous and the caliphs began to send an emir, called *amir-al-hajj*, in place of themselves. This example of the caliphs was followed by other rich and influential people and the pilgrimage by proxy became a profession also in the East [43]. Before departure, only a part of the agreed money, together with the "pilgrim's licence", was given to the vicarious pilgrims; when they arrived back they had to prove that they had really done their job by showing the certificate issued by the authorities of the shrine.

Pilgrims, throughout their journey, enjoyed a special legal protection given by both ecclesiastical and lay bodies. There was a *lex peregrinorum* that protected pilgrims regardless of the reasons for doing the pilgrimage. It has even been said that pilgrim laws are at the root of European supranational law [44,45].

The pilgrimage could be an imposed obligation but most pilgrims went voluntarily for reasons of faith, to fulfil a vow, to ask for a blessing or to pray for a cure, this last being very common. In the Middle Ages diseases and illnesses were seen as a punishment by God for sins and therefore relief and recovery could be obtained only through penitence and the intercession of saints. Pilgrimages became a therapy, particularly during the epidemics of plague that were very frequent during the Middle Ages. Ironically the pilgrims themselves frequently spread diseases, though they did in some cases get cured, thanks to the change of climate and diet or to the better care that the pilgrims received in the monasteries and shrines, the monks often being very good physicians.

Generally, the trips of the pilgrims took place on designated routes that connected the most important sanctuaries. Some of these roads were the most important roads of the medieval age and were also crowded by other travellers, especially by the merchants, who are sources of much medieval history and of its institutions [46]. Some pilgrims described in writing the landmarks of their journey, so creating real travel guides.

The route from northern Europe to Rome was called *via Francigena*, or *via Romea Francigena*, the road from France to Rome, though with its starting point in the English city of Canterbury from where bishop Sigerico left for Rome in the year 990 to receive the pallium from the pope's hands, describing the journey back in his travel diary. South of Rome, the *via Francigena* continued along the route of the ancient Roman roads *via Appia* and *via Traiana* to the Adriatic coast of Puglia and, after stopping at the sanctuary of the Archangel Michael, went on to Bari and Brindisi where a pilgrim could take ship to the Holy Land. Italy was crossed by pilgrim roads and Rome was at the centre of all routes. Symbolically, the route represented the central role of the power and authority of the pope [47–50].

The *via Francigena* was connected across the Alps to another major medieval route network, the *Camino de Santiago* that crossed Northern Europe lengthwise, starting from the Scandinavian peninsula. These roads played a very important role in the building of European culture, helping overcome the political void caused by the fall of the Western Roman Empire and in the building of a new society with its own cultural and religious identity. Several routes made up the *Camino de Santiago* all arriving at the small town of Roncisvalle in the Spanish Pyrenees and so leading on to Santiago. There was the road of the North, the English road and four different French roads. This route had a fundamental role in the establishment of Spanish kingdom. During the whole of the Middle Ages, Santiago de Compostela was the most famous pilgrimage destination, as it is shown by the impartial chronicle of the ambassador of Alī Ben Yusuf, Spanish sovereign of Almoravids (1106–1142), who wrote that so many people went to and returned from Santiago that the road to the west was crowded and difficult to travel [51,52].

The roads were mostly still those originally built by the Romans but often in bad condition, even sometimes cut by rivers that had to be waded across. Maintenance of the roads and the building of bridges to facilitate the pilgrims were considered acts of Christian charity and lay courts passed laws to facilitate the travelling of the pilgrims.

Some pilgrims also travelled by sea with port cities such as Genoa, Marseilles and especially Venice becoming important assembly and departure centres, with a flourishing economy growing around the pilgrims. In Venice a service to the Holy Land was inaugurated, with ships exclusively reserved for the transport of pilgrims [53]. The traffic of pilgrims made the Mediterranean sea, the cradle of the three monotheistic religions, a network of interconnected routes [54].

Pilgrims going to the Holy Land, but also those going to Santiago during the Arab domination of Spain, crossed lands ruled by Muslims. Islamic law favourably regarded pilgrims. An agreement between the Abbasids and Carolingian kings guaranteed to Christian pilgrims to Jerusalem a special pass called an *amān*. An Islamic jurist, Al-Gazālī, separated foreigners into the three categories of ambassadors, pilgrims and merchants, writing that complete safety had to be guaranteed to pilgrims, because of the reason for their journey [55].

At the same time, lay courts began to impose pilgrimage as a punishment, especially the courts of the Netherlands, Germany and northern France. The main crimes punishable by pilgrimage were scandalous crimes such as those against religion, like blasphemy, heresy and sorcery and those committed in churches and other religious buildings. Adultery similarly often led to pilgrimage as a punishment, it being a serious sin. Offences against public property and the public peace were also



punished with pilgrimage, and later crimes against persons and private property, especially threats, assaults and blood crimes were included. The use of the penalty of pilgrimage was twofold: it was a penance and allowed for the expulsion of people dangerous for society for a long time and at no cost. In some cases the pilgrimage replaced capital punishment [56].

Judicial pilgrims began to take the place of voluntary pilgrims and, in so doing, the routes, once crossed by peaceful travellers, came to be more dangerous as the pilgrims included more and more unscrupulous people. So began the crisis of the pilgrimages, though of course this change in the type of pilgrim was not the only factor. During the Middle Ages pilgrims were mostly still considered to be men of God and going on a pilgrimage was always seen as an act worthy of praise, however various other factors also came into play and they contributed over time to a change in this belief. As it became quite impossible to go to Holy Land, because of Islamic rule, substitute holy sites and sanctuaries were founded in Western Europe which, in part, were in competition for pilgrims, often leading to an exaggeration in the promotion of various saints. The advocates of the Christian Reformation, Luther particularly, condemned both the cult of Saints and the veneration of their relics and therefore also pilgrimages, considering this form of piety as similar to superstition. Gradually, the idea of spirituality changed, with a “pilgrimage of the heart”, similar to spiritual exercises, replacing the real pilgrimage. Religious processions in which all people could take part also often became a replacement for pilgrimages.

As these new ideas grew within the populace, people who were travelling came to be looked on as suspicious and normal pilgrims came to be classed within the categories of wastrels, itinerants and vagabonds. People who did not work to earn money for themselves and their families were not well regarded. In fact, the word nomad, originally applied to shepherds moving with their flocks, began to be applied negatively and, in many areas, being a nomad, that is living on charity, became a crime, the crime of begging. In some extreme cases even being a traveller without formal recognition was regarded as a crime. Only pilgrimage to Rome was able to continue with some success, though largely only during the Jubilee years.

## **6. Pilgrimages in Contemporary Europe. The pilgrims' Routes as European Cultural Routes**

In the Middle Ages the movement of people, pilgrims, merchants and also professors paved the way of an European common identity. Already in the ancient world they talked about Europe, but it was a mythical figure before ever being geographical, and only in the medieval age did a European culture and society begin to emerge [57]. Historians agree in identifying the Christian religion as a key factor in forging the new European identity and they emphasize the special role played by pilgrimages, especially by the pilgrimage to Santiago de Compostela [58,59].

Remembering these historical roots does not necessarily mean asserting the existence of a Christian Europe but there is a political, cultural, artistic, moral heritage which is the basis of the construction of a common European home [60]. From the Middle Ages onward, religion, especially the Christian religion, has been a central element in moulding of the European identity, and the pilgrims' routes are one of the elements of that construction.

For this reason in 1987, the Council of Europe declared the *Camino de Santiago* (the Way of Saint James) a “European Cultural Route” and in June 2004 it was made part of the “Major European Cultural Itinerary”. The same recognition was given to the *via Francigena* in December 2004 and in the same year also the *European Route of Jewish Heritage* was added to the list of “European Cultural Routes”. We can find the rules and regulations on the “European Cultural Routes” in the Resolution of 17<sup>th</sup> March 1988 n.4 of the Committee of Ministers of the Council of Europe, as

amended by the Resolution of 10<sup>th</sup> October 2007 n. 12. In these Resolutions we may read the reasons justifying the choice of some routes as a cultural itinerary including the role that they have had in the construction of the European identity, their relevance in promoting a knowledge of European history and culture to a younger generation and the opportunity that they give for the development of sustainable cultural tourism. The Resolution affirms that the routes must have a theme which represents European values with a basis in European history and culture, and must allow further development of cultural initiatives involving scientists and scholars from many different countries. In July 1997 the “European Institute for Cultural Routes” was founded in Luxembourg with the purpose of developing the plan for European cultural routes (website: <http://culture-routes.net/>). Many of these routes have a connection with pilgrimages and, more generally, with European religious traditions so that we find the *Camino de Santiago*, the *Via Francigena*, the *Via Regia* (that connected *Via Francigena* to Russia), the Saint Martin of Tours Route, the Cluniac Sites in Europe Route, the European Route of Cistercian abbeys and the Huguenot and Waldensian Trail. There are even non-Christian routes, such as the aforesaid *European Route of Jewish Heritage* and the *Route of El Legado Andalusi*.

UNESCO has listed among the World Heritage Sites many places, sanctuaries and roads of pilgrimage, such as the Sacred sites and pilgrimage routes in the Kii Mountain Range (Japan), Lumbini, the birth place of the Lord Buddha (Nepal), the Sanctuary of the Bom Jesus the Congonhas (Brazil), the Rock-Hewn churches in Lalibela (Ethiopia), Borobudur Temple Compounds (Indonesia), and many others (website: <http://whc.unesco.org/>). In Europe, UNESCO sites include the *Camino de Santiago*, the centre of the city of Rome and the Vatican city, Mount Athos in Greece, the Kalwaria Zebrzydowska pilgrimage site in Poland and the “Sacri Monti” in Italy.

Some state legislation also governs pilgrimages and the pilgrimage routes. Spanish law protects the *Camino de Santiago*, with the law of 10<sup>th</sup> May 1996, n. 3, *Ley de protección de los Caminos de Santiago*, which aims to re-establish the different roads which make up the pilgrimage route in Spanish territory. The roads are exclusively devoted to pilgrims and the hotels and accommodation for pilgrims are also protected by law.

The Saudi Arabian law on pilgrimage deserves to be particularly highlighted, as the towns of Mecca and Medina are in its territory. Article 24 of the 1992 Saudi Constitution specifies the obligation to protect the holy places and those who come there to make the ritual pilgrimage (*hajji*) or a voluntary pilgrimage, so that it may be carried out in peace and safety. To fulfil this constitutional obligation, there is a Ministry of Pilgrimage in the Saudi government which has the task of supervising the annual pilgrimage and the accommodation of the pilgrims (website: <http://haj.gov.sa/>). Overseeing the services and facilities available to pilgrims from the moment of their arrival in Saudi Arabia until their returning to their country of origin is among the tasks of the Ministry. It has oversight on pilgrim transport companies and pilgrimage organisers, it reviews all publications and scientific publications regarding *hajji* and it holds conferences and study seminars on the theme of pilgrimage with eminent scholars of the Islamic cultural world. The Ministry maintains contact with consular authorities to arrange pilgrims journeys even before they depart and helps pilgrims coming from poorest countries, offering free lodging and guaranteeing that travel agents treat them fairly. The Ministry of *Hajji* licenses pilgrimage organisations on the basis of agreements drafted by the Ministry of Trade. The pilgrims must have a special visa issued by Saudi consulates to be able to enter the sacred territory, if the applicant's name is not Islamic, there must be a certificate from the religious authorities of the pilgrim's mosque or Islamic centre. Women and children must be accompanied by husbands, fathers or other male relatives, but if the woman is older

than forty-five and she has the permission of the man who has the authority over her, she may attend *hajji* unaccompanied, joining an organised group.

Many European countries have opened consulates in Jeddah to provide assistance to their Islamic citizens who go on pilgrimage to Mecca. For example about one hundred twenty-five thousand British citizens make *hajji* each year.

The twentieth century was the century of the great religious assemblies, of mass pilgrimages, of the rediscovery of ancient places of pilgrimage. New sanctuaries also arose, often as an expression of popular religiousness. In recent years pilgrimages have been growing, the number of pilgrimage sites has risen, above all the number of pilgrims has increased. The development of more efficient and more affordable modes of transport has allowed many more people to experience pilgrimage and, within Europe, political stability has made moving around much less complicated.

All religions attach importance to pilgrimage as it is a way of exercising religious freedom. Protecting the pilgrims and their right to pilgrimage is protecting religious freedom, all over the world [61].

## 7. Conclusion

This paper shows that pilgrimage is not only a religious, or social phenomenon, but also an important juridical institution. Properly the religious essence of this kind of trip, often compulsory in some cases, demands that lawgivers give it special attention. National and international laws must not consider pilgrimage to be just a simple journey and pilgrims to be like other travellers. Lawgivers must take account of this aspect of pilgrimage as it is a necessity for the protection of the religious freedom of believers making a pilgrimage. Laws that regulate pilgrimage are laws regarding individual and collective religious freedom, a constitutional freedom, the first of all rights. Awareness at an international level of this necessity is such that the European Council and UNESCO have already protected some pilgrims' routes and sanctuaries with special legislation, however national legislation is still sadly lacking.

## Conflict of Interest

All authors declare no conflicts of interest in this paper.

## References

1. Ferrari S (2007) Tra geo-diritti e teo-diritti. Riflessioni sulle religioni come centri transnazionali di identità. *Quaderni di diritto e politica ecclesiastica* 15: 3-14.
2. Hervieu-Léger D (2003) *Il pellegrino e il convertito. La religione in movimento*, Bologna: il Mulino, 77.
3. Norris P, Inglehart R (2007) *Sacro e secolare. Religione e politica nel mondo globalizzato*, Bologna: il Mulino.
4. Attali J (2003) *L'homme nomade*, Paris: Fayard.
5. Zander L (1955) Le pèlerinage. In: AA.VV., *1054-1954. L'Église et les Églises neuf siècles de douloureuse séparation entre l'Orient et l'Occident*, Chevetogne: Éditions de Chevetogne, 469-472.
6. Barber R (1991) *Pellegrinaggi. I luoghi delle grandi religioni*, Genova: ECIG.
7. Macioti MI (2000) *Pellegrinaggi e giubilei. I luoghi del culto*, Roma-Bari: Laterza, 59-78.

8. Lillo P (2003) Ebraismo ed islamismo: tensioni monistiche ed aperture pluralistiche. In: Cardia C. (ed.), *Studi in onore di Anna Ravà*, Torino: Giappichelli, 499-504.
9. Vercellin G (2003) *Islam. Fede, Legge e Società*, Firenze: Giunti, 94-103.
10. Snouck Urgronje C (1989) *Il pellegrinaggio alla Mecca*, Torino: Einaudi, 19-48.
11. Neusner J, Sonn T (1999) *Comparing religions through law. Judaism and islam*, London-New York: Routledge, 183-184.
12. Kayrawani IAZ (1914) *Risala ou Traité abrégé de droit malékite et morale musulmane*, Paris: Geuthner, 94.
13. Guidi I., ed. (1919) *Il "Muhtasar" o Sommario del diritto Malechita di halil Ibn Ishaq, I*, giurisprudenza religiosa, Milano: Hoepli, 238-248.
14. Juynboll TW (1916) *Manuale di diritto musulmano secondo la dottrina della scuola sciafeita*, Milano: Vallardi, 93.
15. Halm H (2003) *L'Islam*, Roma-Bari: Laterza, 85-89.
16. Scarabel A (2002) *Islām*, Brescia: Queriniana, 122.
17. Man I (2001) *L'Islām dalla A alla Z*, Milano: Garzanti, 45-52.
18. Vincenzo A (2001) *Islām. L'altra civiltà*, Milano: Mondadori, 54-60.
19. Zeghidour S (2001) *La Mecca. Da Maometto alla fine del XX secolo*, Milano: Rizzoli.
20. Vercellin G (1996) *Istituzioni del mondo musulmano*, Torino: Einaudi, 258-265.
21. Mayeur-Jaouen C (2001) I pellegrinaggi musulmani. In: Lenoir F., Tardan-Masquelier Y. (dir.), *La religione*, V, I temi, Torino: UTET, 420.
22. Maccarrone M (1980) Il pellegrinaggio a San Pietro e il giubileo del 1300. *Rivista di storia della Chiesa in Italia*, 363-378.
23. Bisconti F (1999) Le origini del pellegrinaggio petriano e il culto dei martiri romani. In: D'Onofrio M. (ed.), *Romei & Giubilei. Il pellegrinaggio medievale a San Pietro (350-1350)*, Milano: Electa, 36-39.
24. Oursel L (1998) *Vie di pellegrinaggio e santuari*, Milano: Jaca Book, 80.
25. Sumption J, (1999) *Monaci santuari pellegrini. La religione nel Medioevo*, 3 eds., Roma: Editori Riuniti, 114-119.
26. Pietri C. & L (2004) Il pellegrinaggio in occidente alla fine dell'antichità. In: Chélini J. - Branthomme H., *Le vie di Dio. Storia dei pellegrinaggi cristiani dalle origini al Medioevo*, Milano: Jaca Book, 54.
27. Cardini F (1989) Reliquie e pellegrinaggi, In: AA.VV., *Santi e demoni nell'alto medioevo occidentale (secoli V-XI)*, t. II, Spoleto: Centro italiano di studi sull'alto medioevo, 988-992.
28. Otranto G (1999) Il pellegrinaggio nel cristianesimo antico. *Vetera Christianorum*, 239-244.
29. Barreiro Rivas JL (1997) *La función política de los caminos de peregrinación en la Europa medieval. Estudio del Camino de Santiago*, Madrid: Tecno, 16.
30. Ghirlanda G (1989) La visita «ad limina apostolorum». *La civiltà cattolica*, 1989, III, 359-360.
31. Ricciardi Celsi F (2005) *Le relations ad limina. Aspetti della esperienza storica di un istituto canonistico*, Torino: Giappichelli.
32. Imbert J (1947) *Les Hopitaux en droit canonique*, Paris: Vrin, 12.
33. Nasalli Rocca E (1956) *Il diritto ospedaliero nei suoi lineamenti storici*, Milano: Fondazione Sergio Mochi Onory per la storia del diritto italiano, 143.
34. Peyer HC (2005) *Viaggiare nel Medioevo. Dall'ospitalità alla locanda*, Roma-Bari: Laterza, 13-14.

35. Saxer V (1984) Pèlerinages. II. Pèlerinages chrétiens. B. Le pèlerinage aux apôtres Pierre et Paul (des origines à l'an 800). In: AA. VV., *Dictionnaire de spiritualité ascétique et mystique doctrine et histoire*, t. XII, p. I, Paris: Beauchesne, 909-911.
36. Gaudemet J (1998) *Storia del diritto canonico. Ecclesia et Civitas*, Cinisello Balsamo: San Paolo, 614.
37. Vogel C (1994) Le pèlerinage pénitentiel. In: *En rémission des péchés. Recherches sur les systèmes pénitentiels dans l'Eglise latine*, Aldershot-Hampshire: Variorum.
38. Vauchez A (1993) Reliquie, santi e santuari, spazi sacri e vagabondaggio religioso nel medioevo. In: De Rosa G., Gregory T., Vauchez A. (ed.), *Storia dell'Italia religiosa. 1. L'antichità e il medioevo*, Roma-Bari: Laterza, 456.
39. Morghen R (1987) *Medioevo cristiano*, Roma-Bari: Laterza, 55-57.
40. Caucci von Saucken P (1989) Introduzione, *Guida del pellegrino di Santiago. Libro quinto del Codex Calixtinus secolo XII*, Milano: Jaca Book, 7.
41. Péricard-Mèa D (2004) *Compostela e il culto di san Giacomo nel Medioevo*, Bologna: il Mulino.
42. Labande ER (1958) *Recherches sur les pèlerins dans l'Europe des XIème et XIIème siècles. Cahiers des civilisation médiévale*, I, 160.
43. Mazahéri A (1951) *La vie quotidienne des musulmans au moyen age Xe au XIIIe siècle*, (XVI ed.), Paris: Hachette, 22.
44. Garrison F (1965) A propos des pèlerins et de leur condition juridique. In: AA.VV. *Etudes d'histoire du droit canonique dédiées à Gabriel Le Bras*, II, Paris: Sirey, 1165-1189.
45. Gilles H (1980) Lex peregrinorum. *Cahiers de Fanjeaux*, n. 15.
46. Ascheri M (1999) *Istituzioni medievali*, 2 eds., Bologna: il Mulino, 25.
47. Stopani R (1991) *Le vie di pellegrinaggio del Medioevo. Gli itinerari per Roma, Gerusalemme, Compostela*, Firenze: Le Lettere.
48. Stopani R (1992) *La Via Francigena. Una strada europea nell'Italia del Medioevo*, 2 eds., Firenze: Le Lettere.
49. Szabó T (1997) Le vie per Roma. In: AA.VV., *La storia dei Giubilei, I (1300-1423)*, Prato: BNL-Giunti, 70-89.
50. Miglio M (1999) *Pellegrinaggi a Roma*, Roma: Città Nuova.
51. Vázquez de Parga L, Lacarra JM, Uría Rúa J (1948) *Las peregrinaciones a Santiago de Compostela*, II, Madrid: Consejo Superior de investigaciones científicas (facsimile reprint Pamplona, Gobierno de Navarra, 1998).
52. Valiña Sampedro E (1971) *El Camino de Santiago. Estudio historico-juridico*, Madrid: C.S.I.C.
53. Cardini F (2002) *In Terrasanta. Pellegrini italiani tra Medioevo e prima età moderna*, Bologna: il Mulino, 88.
54. Braudel F (1995) Il mare. In: Braudel F. (ed.) *Il Mediterraneo. Lo spazio la storia gli uomini le tradizioni*, 5 eds., Milano: Bompiani, 51.
55. Bognetti GP (1933) *Note per la storia del passaporto e del salvacondotto (a proposito di documenti genovesi del secolo XII)*, Pavia: Tipografia già Cooperativa, 181-194.
56. Van Cauwenbergh E (1922) *Les pèlerinages expiatoires et judiciaires dans le droit communal de la Belgique au Moyen Age*, Louvain: Librairie de l'Université.
57. Ventura M (2001) *La laicità dell'Unione Europea. Diritti, mercato, religione*, Torino: Giappichelli, 1-3.
58. Chabod F (2003) *Storia dell'idea d'Europa*, 5 eds., Roma-Bari: Laterza, 33-47.
59. Le Goff J (2004) *Il cielo sceso in terra. Le radici medievali dell'Europa*, Roma-Bari: Laterza, 8-38.

- 
60. Cardini F (2002) *Europa. Le radici cristiani*, Rimini: il Cerchio.
61. Lo Giacco ML (2008) *Pellegrini, romei e palmieri. Il pellegrinaggio fra diritto e religione*, Bari: Cacucci.



AIMS Press

© 2016 Maria Luisa Lo Giacco, licensee AIMS Press. This is an open access article distributed under the terms of the Creative Commons Attribution License (<http://creativecommons.org/licenses/by/4.0>)