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Citizenship and religion in the Italian constitutions, 1796–1849

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ABSTRACT

This article explores the link between religion and politics, religious liberty and the rights of religious minorities, by focusing on the constitutions which Italian states adopted and discarded from 1796 to 1849. It concerns questions about the 'national character' and the rights and duties of the citizen, and argues that – far from being 'an outlet' for material discontent – questions of religious identity and pluralism were integral to the Risorgimento definition of liberty. In this context, the author explores also the Mazzinian vision of a democratic republic inspired by an acephalous and non-hierarchical civil religion, similar to the Unitarian Transcendentalism practiced by some of his New York admirers – a far cry from the 'religions of politics' inspired by Saint Simon and Auguste Comte.

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Introduction

In the Euro-Atlantic tradition, the debate on citizenship has focused on rights and duties defined by state sovereignty and individual liberty. Except in Britain, everywhere else the relationship between the latter two concepts was defined by written constitutions. Nowadays, however, the study of constitutional history is unpopular among historians, and the analysis of the actual texts of these fundamental laws is either relegated to the margins of the profession or consigned to law scholars altogether. Although this is part of an understandable reaction against what used to be an excessive interest in this branch of the discipline, it has come with unfortunate consequences, including the neglect of primary sources which, by their very nature, encapsulate the spirit of an age and the political aspirations of its people – or at least of their ruling elite during crucial, formative periods of their history.

The present chapter focuses on the Italian constitutions of the revolutionary period between the beginning of the French invasions in 1796 and the fall of Giuseppe Mazzini's Roman Republic in 1849. During these 55 years a large number of 'statutes' and 'fundamental laws' was produced in all the regional and dynastic states of the peninsula, in an attempt to reconcile new liberal and democratic aspirations with socially and historically embedded values, the most important of which were those linked to religion.

The above claim that religion mattered may come across as strange, and certainly would have been controversial a few years ago, when scholars used to take for granted the notion that there was a link between 'modernization' and 'secularization' and, therefore,

that the analysis of citizenship in the post-revolutionary age should focus on 'class'-related issues. Although events in recent decades have made us think again about this teleological secularist hypothesis,¹ some historians continue to explain the Italian difficulty with religious toleration as an expression of 'some other' cause of a material nature. Christopher Duggan, for example, has recently argued that Italian resistance to French anticlericalism largely arose from a reaction to army requisitions of foodstuff and cattle. Soon, Duggan argues, '[p]easant fears and anger found an outlet in an explosion of religiosity'.² Allegedly, throughout the nineteenth century, in the conflict between the modern state and the church, popular support for the latter reflected resentment against an intrusive and oppressive government, with religion acting as an 'outlet' for emotions, rather than as an independent cause of political resistance. Duggan shows no interest in exploring the various dimensions of such a clash: for example, surprisingly he does not even mention the extent to which Jacobin and later liberal ecclesiastical policies completed, rather than subverted, reforms already initiated by previous Italian governments under the aegis of 'Enlightened despotism'.³ Moreover, the Jacobins, besides attacking the Church, also did something for religion, by establishing civil

¹ *The desecularization of the world. Resurgent religion and world politics*, ed. P. Berger (Grand Rapids, MI, 1999); P. Berger, 'Introduction: the cultural dynamics of globalization', in: P. Berger and S. P. Huntington, *Many globalizations. Cultural diversity in the contemporary world* (Oxford, 2002), 12–6.

² C. Duggan, *The force of destiny. A history of Italy since 1796* (Boston and New York, 2008), 18.

³ See for example M. Caffiero, 'Gli ebrei avvelenatori dei cristiani. Una polemica nella Roma del Settecento tra economia e ideologia', in: *Dall'origine dei Lumi alla Rivoluzione*, a cura di D. Balani, D. Carpanetto e M. Roggero (Roma, 2008), 105–123; for a comparative discussion of these themes see D. Beales, *Enlightenment and reform in eighteenth-century Europe* (London, 2005), 7–27.

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rights for non-Catholic minorities. The latter soon became targets of popular hatred, but again Duggan does not explain why. Yet, the question deserves some attention especially because there were so few of them that they could hardly have been perceived as a threat by ordinary people.

In the present contribution I shall look at these issues by examining the Italian constitutions as 'maps' of the contours of citizenship and contemporary understandings of liberty. Freedom is such a ubiquitous concept in modern European and American history, that it is easy to forget that its meaning and implications were originally controversial and disputed – as illustrated by Benjamin Constant's famous 1819 lecture on the 'Liberty of the Ancients compared with that of the Moderns', with the former consisting of a people's self-government, the latter of the citizens' claim to a sphere of intangible personal rights.⁴ In particular, throughout the period from 1796 to 1849, the close links between liberty and nationalism contributed to the complexity of the question. Thus, on the one hand, national liberty could be identified with the exclusive heritage of a particular ethnic group, to be secured by the expulsion of the foreigner.⁵ On the other, it had humanitarian and universal connotations: it was about individual and minority rights, the rule of law and the nature of the legislative process.⁶ Liberty in the Risorgimento had both meanings as well as others, which emerged from the interaction of humanitarianism and xenophobia.

Mediating between understandings of liberty

Such interaction was mediated and civilized by the constitutional pact. Banti has argued that family and blood links were at the roots of the national sentiment.⁷ However, he has neglected the significance of the constitutions in establishing a virtual 'family', one which transcended ethnic realities through a 'social contract' or covenant (a notion borrowed from the Bible and at the time popular among democrats). The constitutions also tried to reconcile Benjamin Constant's 'liberty of the moderns' with his 'liberty of the ancients' (namely self-government on the basis of the 'general will') through the principle of representative government, which, in its modern form was introduced into Italy by the French Revolutionary armies in 1796. The Italian constitutional model developed over the next 55 years. Personal and communal liberty were, from the start, its principal values. The constitution of Bologna – the first to be proclaimed (4 December 1796), with a view to restoring the freedom of the city-state – declared (art.1) that 'The rights of man living in Society are freedom, equality, security, property.' Art.2 clarified that 'Civil liberty consists in being able to do anything which is not forbidden by the law.' This Hobbesian definition was, however, counterbalanced in the following articles, which were characterized by a 'neo-roman' emphasis on liberty as self-government: art.4 proclaimed that 'Security results from the cooperation of all to ensure the rights of each', and art.6 proclaimed that 'Civil law is the general will expressed by the largest number of citizens, or by their Representatives'.⁸ These

principles and definitions were confirmed the following year by the two successor republics of Northern Italy, the Cispadana and the Cisalpina.

They were based on the French model of 1795 and incorporated the Declaration of the Rights of Man and Citizen. However, the principles on which the French experience itself was based were not exclusively French, but instead represented the common legacy of the Enlightenment, which had been created, as much as received, by Italian philosophers and jurists. Thus, while in the context of the late 1790s France's influence in Italy was decisive – for the simple reason that its armies controlled the Peninsula – it would be mistaken to dismiss these early constitutions as mere exercises imitating Parisian fashion. Instead, we must bear in mind their continuity with the pre-revolutionary political culture of the Italian states. This involved – besides the Enlightenment – the values of ancient Greek liberty and those of Roman law, which had long been rehearsed by the educated bourgeoisie through the classical syllabus dominating their system of education. Moreover, they also reflected the Machiavellian republican tradition of the Italian city-states: four of them survived until the French invasions (Genoa, Venice, Lucca and San Marino), and over the previous 150 years such a tradition had deeply influenced French, Dutch, English and American ideas of liberty and citizenship.⁹

It was the coming together of these parallel traditions which shaped the age, with democratic revolutions spreading a desire for 'liberty and equality' from the Americas to Poland, from Ireland to Sicily.¹⁰ In a sense, the republican gospel of the 1790s, instead of being simply 'imported' into Italy from France, was now 'coming back home' after an extensive *grand tour* of Western Europe and North America.

In many Italian states the events of 1796–1799 represented an acceleration of the reform programme of the eighteenth century, rather than a radical change of direction. The continuity was also stressed by the fact that in the 1790s the Jacobins found themselves working with intellectuals of the last generation of Enlightenment reformers, including Pietro Verri (1728–1797), Eleonora de Fonseca Pimentel (1751–1799) and Mario Pagano (1748–1799). In turn, from 1815 many of those who had acquired political and administrative experience under the previous 20 years of French occupation continued to be active in liberal conspiracies. This continuity in personnel and ideas meant that the Italian constitutional debate developed *organically* rather than by means of a decisive revolutionary crisis. Part of the problems faced by the republican governments derived precisely from their inheriting so much of the spirit of the old regime, including its narrow elitism and understanding of reform as something to be imposed from above, by assertive governments guided by the norm of 'public happiness', rather than as the outcome of a groundswell of popular demand.

The ordinary people did not hesitate to oppose the Jacobin constitutions whenever the latter violated local conventions and prejudices. Particularly significant was the debate on the role of the Church and Roman Catholicism as the 'state religion'. At Bologna in 1796, against Jacobin pressure, the City Senate unsuccessfully tried both to include among the citizens' duties 'the preservation of the Roman Catholic religion', and to reaffirm the exclusion of non-Catholics from public office.¹¹ In Genoa religious freedom went together with a revival of Jansenism, but in 1797 there were riots

⁴ B. Constant, 'The liberty of the Ancients compared with that of the Moderns', in: *Constant. Political writings* (Cambridge, 1988), 308–28.

⁵ A. M. Banti, 'Sacrality and the aesthetics of politics: Mazzini's concept of the nation', in: *Giuseppe Mazzini and the Globalization of democratic nationalism 1830–1920*, ed. C. A. Bayly and E. F. Biagini (Oxford, 2008), 62.

⁶ N. Urbinati, 'The legacy of Kant: Giuseppe Mazzini's cosmopolitanism of nations' and M. Isabella, 'Mazzini's internationalism in context: from the cosmopolitan patriotism of the Carbonari to Mazzini's Europe of nations', in: *Mazzini*, 11–36 and 37–58 respectively.

⁷ A. M. Banti, *La nazione del risorgimento: Parentela, santità e onore alle origini dell'Italia unita* (Torino, 2000).

⁸ *Le costituzioni italiane*, a cura di A. Aquarone, M. D'Addio, G. Ngri (Roma, 1958), 8.

⁹ J. Pocock, *The Machiavellian moment: Florentine political thought and the Atlantic republican tradition* (Princeton, NJ, 1975).

¹⁰ R. R. Palmer, *The age of democratic revolution*, 2 vols. (Princeton, NJ, 1959); cf. J. Godechot, *La grande nation. L'expansion révolutionnaire de la France dans le monde, 1789–1799* (Paris, 1956).

¹¹ *Le costituzioni italiane*, introd. by M. D'Addio, 6.

against the Republic and in defence of religion.¹² In Tuscany not only the Jacobins, but also the Jews were targeted by the 'Viva Maria' mobs in 1799, while the Neapolitan Republic fell to a crusade led by Cardinal Ruffo and his 'Holy Faith' army of peasants, brigands and religious fanatics. Later, not even Napoleon himself dared to challenge such popular feeling: his Constitution of the Italian Republic (26 January 1802) made no mention of the rights of man, but proclaimed (art.1) that 'The Roman Catholic Apostolic religion is the religion of the State.'¹³

Over the following decades the relationship between religion and individual liberty remained a bitterly contested issue. Toleration came back with Joachim Murat's liberal constitution of March 1815, but was excluded by the 1820 Constitution of the Kingdom of the Two Sicilies.¹⁴ The latter was based on the equally intolerant Spanish Constitution of 1812, which also provided the blueprint for the 1821 statute of the Kingdom of Piedmont-Sardinia. However, to their version of such a constitutional model the Piedmontese reformers attached an amendment which explicitly allowed 'the practice of other confessions'. Their comparative liberalism in this matter reflected a long-established tradition: there was, within the kingdom, a Protestant minority, the Presbyterian Waldensians. They lived in a sort of ghetto in their Alpine villages, where they were severely discriminated against, but had officially been tolerated from as early as 1690.¹⁵ Yet, it is significant that the Piedmontese did not adopt the French *Charte* of 1814, despite their geographical proximity and close cultural relationship with France. The *Charte* was more restrictive than the Spanish document in terms of its qualification for the exercise of the vote, but far more liberal and pluralist in terms of religious rights. This suggests that the aspects of citizenship in which the Piedmontese constitutionalists were interested were those connected with the so-called 'liberty of the ancients' (self-government and related electoral rights), rather than with individual rights and the 'liberty of the moderns'.

In the 25 years between the suppression of the 1820–1821 constitutional movements and the election of Pius IX in 1846 some of the most important contributions to the debate on liberty and citizenship were elaborated by the Italian exiles. Particularly important was the English experience of Ugo Foscolo, (1778–1828), who personified the ability of some members of the Italian 'Jacobin' generation to develop a distinctly liberal position after 1815.¹⁶ An exile in London from 1817, Foscolo's model was explicitly English and Whig. Whiggery, which in the 1790s had been dismissed as a form of conservatism, now appeared as an effective antidote to Napoleonic despotism and the only credible alternative to Metternich's Restoration of monarchist absolutism. Between 1816 and 1827, in a series of writings on the 'Constitution of the Ionian Islands', the history of the Neapolitan Republic of 1799 and the constitutional history of democracy in Venice, Foscolo elaborated a highly original synthesis of Hobbesian anthropology and a neo-roman vision of liberty, tempered by Whig principles. His attitude towards the Italian constitutional experience of 1796–1799 was in various ways reminiscent of Vincenzo Cuoco (1770–1823), another disillusioned Jacobin, disappointed particularly by the Italian revolutionaries' alleged

tendency to adopt slavishly foreign constitutional models which were totally unsuitable for the local conditions in Southern Italy. In his praise of Venice, Foscolo argued that the institutions of a free country should grow organically on the basis of historical precedents rooted in popular culture, and that constitutional theory should be informed by experience and actual practice (a view echoing Edmund Burke). Moreover, he believed that it was important for citizens to have 'a stake in the country', i.e. to own land, perceived as the only guarantee of true patriotism, in contrast to 'cosmopolitan' and mobile commercial property.

To him religion was primarily a function of the public and political, in the sense it had for the ancient Romans in republican times: thus Foscolo praised the Greek Orthodox clergy, whose priests were 'family men' and as such closely associated with the national aspirations of their own people. By the same token he was suspicious of the Catholic priests, whom he saw as alien to civil society and potentially hostile to the nation, because of their compulsory celibacy and vow of obedience to the pope (a foreign monarch).¹⁷ A similar aspiration to reclaim a civic version of religion for the *res publica* characterized a short-lived constitutional experiment in Central Italy. In March 1831 many towns in Emilia, Romagna, the Marches and Umbria – in fact, most of the provinces in the Papal State – proclaimed their independence, in an attempt to create a commonwealth which would be 'secular' ('the temporal power which the Roman Pontiff exercised ... has been *de facto* terminated and forever ended *de jure*'), although based on 'the practice of the Roman Catholic Apostolic religion in its integrity'.¹⁸ The new state chose the name of Italian United Provinces, and established its capital in Bologna, with a constitution proclaiming the separation of powers and adopting a form of representative government (through the election of a Consulta of civic delegates). This experiment was soon terminated by Austrian military intervention, but the rapid and widespread success of its bloodless revolution indicated the extent to which the Papal/theocratic political and administrative system had lost social support and legitimacy in the main urban centres. On the other hand, the constitutional formula adopted by the rebels indicated their wish to reconcile a free government with traditional religious sentiment: the new state would be free from Papal rule, but also bound by 'the practice of the Catholic religion' 'in its integrity.' Significantly the latter was now perceived as a civic reality which no longer relied on the preservation of the Pope's temporal power. Also significant was the reformers' conviction that the proclamation of this new understanding of Christian teaching could legitimately be undertaken by the United Provinces' *secular* authorities, rather than by a synod of the Church.

Both Foscolo and the United Provinces affair suggest that there was a gradual cultural shift in the reformers' attitude to the relationship between representative government and revealed religion, although current notions of citizenship reflected the persistent influence of classical and medieval republican traditions, more than that of modern liberalism. This is an aspect which remained significant until 1848, when the 'liberty of the moderns' became the central concept behind citizenship.

In the intervening period, between 1831 and 1846, Giuseppe Mazzini (1805–1872) stood out among those who tried to mediate between the two traditions of liberty. His republican proposals involved a drastic solution to the relationship between state and church. He set up his own organization, the *Giovine Italia*, which campaigned on a programme of national unity grounded in a democratic republic, but which also demanded the creation of a 'democratic' church, based on a simple parish structure and the

¹² M. Moresco, 'La Repubblica di Genova e la libertà religiosa', *Atti della società italiana per il progresso delle scienze*, 1912, 659–666; see also S. Pivano, 'Le dottrine giusnaturaliste e gianseniste in Italia e la loro influenza sulla legislazione ecclesiastica del triennio repubblicano', in: *Miscellanea di studi storici in onore di G. Sforza* (Lucca, 1929), 43–62.

¹³ *Le costituzioni italiane*, 159.

¹⁴ *Le costituzioni italiane*, 467 (art.12 of the Constitution).

¹⁵ A. A. Hugon, *Storia dei valdesi*, vol. 2 (Torino, 1989), 197–204; for the text of the amendment, see *Le costituzioni italiane*, 513.

¹⁶ The best study is still the old E. Donadoni, *Ugo Foscolo pensatore, critico, poeta* (Milano, Palermo, Napoli, 1905).

¹⁷ E. F. Biagini, 'From Jacobin to Whig? Ugo Foscolo's "English" constitutional thought, 1816–1827', *European Journal of Political Theory*, (2005), 34–49.

¹⁸ *Le costituzioni italiane*, 557–60.

abolition of the whole ecclesiastical hierarchy. Over the following years – which Mazzini spent in exile in Switzerland, France and England – he further developed on this model, reflecting on the contemporary philosophical debate. He was equally open to French, English, American and German influences and throughout his career remained at the cutting edge of European discussions of liberty.

Some scholars have argued that throughout his life he was mainly influenced by Saint Simon and Auguste Comte, and that his syncretistic ‘religion of politics’ anticipated Carl Schmidt and Leo Strauss, if not even fascism.¹⁹ However, such view must come up against a series of insuperable difficulties. In particular, while Comte’s ‘religion of humanity’ ‘was homologous with the Catholic form of Christianity which it was “destined” to replace’,²⁰ Mazzini’s ‘church’ was ‘catholic’ merely in the sense of being, ‘universal’ – as universal as humanity itself. Moreover, it was essentially *laica* in rejecting any clerical input into the problems of political authority and social organization.²¹ His resolve to dispense with the hierarchy and the Pope, his rejection of the whole notion of sacerdotal intermediaries between God and the People, and his theological ‘Unitarianism’ – which denied Christ’s divinity and excluded the cult both of saints and of Mary – pre-empted any possible compromise. In all of this his vision reflected the influence of Protestant culture, including Kant, Sismondi, Guizot, Carlyle, and the American Transcendentalists. His philosophy was rooted in a Romantic vision of ‘duty’ as a fundamental principle both for the development of the personality and potential of individual citizens, and for the collective progress of each society or nation. A democratic republic required a religious foundation in the shape of an acephalous and non-hierarchical civil religion, similar to the Unitarian Transcendentalism practiced by some of his New York admirers. Like his contemporaries John Stuart Mill (1806–1873) and W.E. Gladstone (1809–1898), he thought that the purpose of politics was the ‘application of moral law to civil society, in [the latter’s] two spheres of action, domestic and international’.²² This required liberty, which was ‘the right every man has to exercise without obstacles or restrictions one’s faculties in the pursuit of one’s own special mission and in the choice of the means which may best facilitate its fulfilment’.²³ Therefore, liberty was ‘sacred’ and represented the very essence of citizenship.

The similarities and convergences between his vision and the political thought of mainstream English liberals were partly due to the latter being heavily influenced by the civic humanism of the Protestant religious tradition, which included both spiritual and civic notions of ‘duty’. This affinity was further strengthened by the fact that, although Mazzini was never a convert, he was a great admirer of the Reformation as the ultimate example of a successful revolution. In his view, between 1789 and 1799 the French Revolution became a ‘failed Reformation’ because it had not been accompanied by the moral regeneration of its people. By contrast, Mazzini regarded the Lutheran Reformation of 1517 as a ‘successful revolution’, one which continued to reshape the world over the next three centuries – for example, through Cromwell’s Commonwealth in the 1650s and the foundation of the USA in 1776 – because it achieved a moral and religious transformation.²⁴

Mazzini developed his concept of the French Revolution as a ‘failed Reformation’ in London, under the influence of Thomas Carlyle, while participating in the debates between Chartists and radical exiles from Continental Europe, most of which were published in the *Northern Star*. Such debates – partly inspired by the appearance of the English edition of Alexis de Tocqueville’s *Democracy in America* (1835) – resulted in his publishing a series of articles under the title of *Democracy in Europe*. Criticizing Friedrich Engels and echoing contemporary Prussian Protestant reformers and the British Nonconformists, Mazzini insisted that the key to the democratic revolution was a national ‘religious’ conversion, rather than class struggle.²⁵ In the short term, events seemed to prove him right.

The 1846–1848 experiments

The revolutionary period 1846–1848 started with a politico-religious event, although not one envisaged by Mazzini. In 1846 the election of Pius IX, a ‘liberal’ pope, suddenly seemed to confirm the thesis of those who – like Vincenzo Gioberti (1801–1852) – claimed that national independence and civil liberty required a close alliance between reformers and the Papacy. The idea that in the Middle Age the papacy had played a national role (culminating with the Guelph alliance of the Lombard Communes against the Emperor Frederick Barbarossa in 1176) had already been elaborated by Foscolo, Pompeo Litta (1781–1852) and others. Now Gioberti proposed a coherent ‘neo-Guelph’ vision as the founding myth of the ‘primacy of the Italians’.²⁶

Within three years, the newly elected Pius IX freed political prisoners in the Papal State and allowed the involvement of secular administrators in its running. Soon his name became the reformers’ battlecry. Italy seemed to be following a Belgian trajectory, with an alliance between liberals, Catholics and nationalists. Camillo Benso di Cavour (1810–1861), who was emphatically *not* a neo-Guelph, writing in February 1848, contrasted the Risorgimento with the national upheavals in England, Spain and France: while in each of these three countries the revolution had opposed the Church, ‘in Italy ... there are not, there cannot be, not only war, but not even real contrasts between religion, those who minister it, and the spirit of liberty’, thanks to the work of reconciliation which, he thought, Gioberti and Pius IX had worked out together.²⁷

He was soon to be disillusioned. The problem was that, once the floodgates were opened, it proved impossible for the pope and his fellow-sovereigns to stop the tide of popular demands for further change. Given both the economic and social crises of 1845–1846 – with severe crop failures throughout Europe, and consequent peasant unrest – and the strength of Roman Catholic sentiment in the country, the dream and hope of a liberal and civically-minded church proved too powerful to control. It helped to mobilize a truly ‘national’ movement (including traditionally marginalized groups, such as women) around a viable political programme. Artisans, urban working men and women, and the freeholders in the Alpine and Apennine areas – alarmed by the economic crisis and inspired by liberal propaganda – looked up to their parish priests (often pro-revolution) in the hope that Pius IX would create ‘a church of the poor’.

By the same token, the religious construction of nationality associated with the cult of the Pope encouraged women of all classes to engage with the concepts (and politics) of ‘Italy’ – a

¹⁹ S. Levis Sullam, “‘Fate della rivoluzione una religione’”: Aspetti del nazionalismo mazziniano come religione politica (1831–1835)”, in: *Risorgimento italiano e religioni politiche*, ed. S. Levis Sullam, 705–30, and S. Levis Sullam, “‘Dio e il Popolo’: la rivoluzione religiosa di Giuseppe Mazzini” in: *Storia d’Italia. Annali 22. Il Risorgimento*, ed. A. M. Banti, P. Ginsborg, (Turin, 2007), 401–22.

²⁰ A. Wernick, *Auguste Comte and the religion of humanity: the post-theistic program of French social theory* (Cambridge, 2001), 2; see also 81–115.

²¹ C. Carbonara, ‘Giuseppe Mazzini filosofo della religione e della prassi’, *Logos*, 3/1973, 415.

²² *Scritti editi ed inediti di Giuseppe Mazzini* (Imola, 1919, henceforward cited as SEI), XCII vols., 108.

²³ SEI, LXXVII, 212.

²⁴ E. F. Biagini, ‘Mazzini and anticlericalism: the English exile’, in: *Mazzini*, 145–66.

²⁵ See the two volumes by S. Mastellone, *Mazzini e Linton. Una democrazia europea (1845–1855)* (Firenze, 2007) and *La nascita della democrazia in Europa. Carlyle, Harney, Mill, Engels, Mazzini, Schapper. Addresses, Appeals, Manifestos (1836–1855)* (Firenze, 2009).

²⁶ V. Gioberti, *Del primato morale e civile degli italiani* (Bruxelles, 1843).

²⁷ Camillo Benso di Cavour, *Scritti politici*, a cura di G. Gentile (Roma, 1930), 4.

notion which now acquired some political significance for the urban masses – and to think of ‘citizenship’ as something to which they could aspire. Their access to the political process was further encouraged by the *municipal* spirit which characterized the early stages of the revolution. At first, the latter was something homely and exciting, rather than threatening. For over two years women were encouraged to join in processions (often carrying the tricolour flag), and to attend *Te Deums* and other celebrations in honour of Pius IX. The latter allowed his name to become a byword for the new principles of liberty, participation and constitutional reform.

Of course, it was a highly ambiguous situation, for, despite the emphasis on ‘domestic’ values and continuity between traditional feminine roles and the new patriotism, women’s presence in the public sphere was clearly instigated by questions pertaining to political affairs. Contemporary observers were fully aware of this, and some were outraged, perceiving even comparatively modest expressions of political autonomy as open challenges to the established order of things in general and gender in particular. Women’s participation was by and large constrained by the criterion of female ‘respectability’: religiosity, obedience to father and husband, and deference to conventional sentimental priorities defined the acceptable sphere of female patriotism. An emphasis on duties, rather than rights, provided the dominant principle of feminine participation and, although English and French ‘feminist’ literature soon began to circulate, the demand for women’s rights remained limited.²⁸

Yet this ambiguity, confusion and overlap between various meanings of ‘liberty’ (municipal, ‘ancient’ and ‘modern’) facilitated the spreading of liberalism throughout the Peninsula. One after the other the monarchs were persuaded or forced to introduce reforms, which then started a domino effect: once a king or a prince accepted a particular reform, the latter was immediately requested by the subjects of neighbouring states. Expectations spiralled, and demands for specific concessions – such as the freedom of the press in 1847 – soon became a clamour for a full constitution.

In most cases, the short timescale of the events and revolutionary atmosphere in which changes took place prevented the development of any real debate on the precise contents of the new constitutions. As in 1796–1799 and 1820–1821, Italian reformers relied on foreign models. However, the reception of such models was now based on decades of critical analysis and discussion, mainly conducted abroad from 1815 onwards by exiles. As we have already seen, Foscolo had started such a tradition based on the study of the British model and its applicability to the rest of Europe. Giuseppe Pecchio (1785–1835),²⁹ Pellegrino Rossi (1787–1848) and Cavour had further developed such tradition to the extent that by 1848 each had already secured for himself a solid reputation. Cavour had started his engagement with constitutional matters as the author of report for the British Commission working on the reform of the Poor Law in 1834, and had also published an analysis of the Irish question. Then, under the influence of Swiss and French Protestant liberalism, he developed his view of religious freedom and the separation between church and state as two key dimensions of modern citizenship.³⁰ Rossi was appointed by François Guizot to the chair of Constitutional Law at the College de France in 1833 – a position previously held by Jean-Baptiste Say. Rossi occupied it until 1848, when, on being

called to his native Rome, he presided over Pius IX’s first and last liberal government.³¹

It is commonly supposed that in 1848 most Italian constitutions imitated the document promulgated by Louis Philippe in 1830, which (like its predecessor, the 1814 *Charte* of Louis XVIII) reflected the British model and facilitated its ‘migration’ to the Continental context. This assumption is however largely incorrect. For example, in terms of structure and their definition of the idea of citizenship, none of the Italian statutes was as explicit or liberal as the French documents. While the latter opened with declarations of citizens’ rights, the Italian constitutions devoted more attention to asserting the status of the Roman Catholic Church as the ‘State religion’ and affirming the powers of the monarchs, than to defining political rights. Indeed, some (those promulgated in Rome, Naples and Sicily) were explicitly *much less* liberal than the French *Charte* in terms of civil rights. All of these contrasted completely with the Constitution of the Roman Republic (July 1849), which was both democratic and original, even by comparison with the Constitution of the Second Republic in France (promulgated in November 1848). This suggests that, far from there being ‘indifference’ to constitutional debate or a pedestrian copying of foreign experiences, as some historians have argued,³² in 1848–1849 politically active Italians had a clear idea of the constitutional alternatives available to them and the kind of ‘liberty’ which each would entail, and chose their ‘model’ in a critical way, taking care to adapt it to the specific traditions and needs of their particular regional and dynastic state.

In Southern Italy reformers continued to look to Spain – understandably, in view of the historical links between it and the Two Sicilies and of the social and economic similarities between these two Southern-Mediterranean societies. In Piedmont-Sardinia the Statuto bore no obvious similarity to the French documents, except in terms of establishing a ‘mixed’ constitution, with the king sharing executive and legislative power with a house of peers and a Chamber of Deputies (elected on an exclusive property qualification). However, while the July Monarchy constitution opened with a declaration of citizens’ rights (articles 1–11), the *Statuto* followed the Italian model in devoting its article 1 to religion, and the next twenty-two to safeguarding the powers of the monarch (in the French constitution this question was dealt with in only seven articles, nos. 12–19). While the July Monarchy followed in the footsteps of the 1795 republican tradition in summarizing the heritage of the Enlightenment in juridical formulae, the Sardinian Statute referred to citizens as ‘subjects’ (*regnicoli*), and defined them primarily as owners of property. It contained no real discussion of civil rights and – again in contrast to the two French constitutions and the Belgian constitution of 1831 – made only cursory allusion to the toleration of non-Catholic religions.³³

It is remarkable how in all the Italian states religious toleration was a thorny issue. This of course depended largely on the difficulty both of defining the status and of limiting the powers of the Roman Catholic Church. The latter, besides controlling its own sovereign kingdom in Central Italy, also retained immense power everywhere else in Italy, with its clergy being subject to a separate legal system, enjoying fiscal immunities and managing a vast amount of inalienable property. What to do about such property was not simply a constitutional issue: it was also one which had enormous relevance for the economic development of each state, and for the government’s ability to raise revenue in an effective and equitable way.

²⁸ On women in the Risorgimento see the important chapters in *Storia d’Italia Annali 22, Il Risorgimento*, a cura di A. M. Banti and P. Ginsborg (Torino, 2007).

²⁹ M. Isabella, “‘Una scienza dell’amor patrio’: public economy, freedom and civilization in Giuseppe Pecchio’s works (1827–1830)”, *Journal of Modern Italian Studies*, 4(2) (1999), 157–83.

³⁰ Particularly influential on Cavour were the ideas of a Lausanne Reformed pastor, Alexandre Vinet, published as *Mémoire en faveur de la liberté des cultes* (Paris, 1826).

³¹ L. Ledermann, *Pellegrino Rossi, l’homme et l’économiste, 1787–1848, une grande carrière internationale au XVIII^e siècle* (Paris, 1929).

³² *La rivoluzione liberale e le nazioni divise*, a cura di P. L. Ballini (Venezia, 2000).

³³ *Le costituzioni italiane*, 664.

From February 1848 this and many other questions ceased to be merely academic: the 'spring of the peoples' started in the South with the Constitution of the Kingdom of the Two Sicilies (10 February). There followed the 'fundamental law' of the Grand Duchy of Tuscany (15 February) which was the most liberal of the Italian statutes and contained an emphatic commitment to religious liberty and the equality of all Tuscans before the law 'whatever maybe the religion they profess' (arts.1 and 2). The *Statuto pontificio* (14 March) established the separation of powers and a secular government. Then there came the Statute of the Kingdom of Sardinia (4 March) and of Parma (24 March). The latter was short-lived, but very interesting. It defined the state as a 'tempered, hereditary constitutional monarchy [based] on representative institutions' (art.1), proclaimed Catholicism to be its official religion, but also declared that 'the other religions currently practiced will be allowed according to the law' (art.2), and made the government explicitly responsible to the majority in Parliament. The last two constitutions to be promulgated in 1848 were those of Modena (29 September) and the secessionist Kingdom of Sicily (10 July): the former allowed the practice of 'the Jewish religion, the only [non-Catholic religion] currently practiced [in the state]'; the latter followed the Spanish model and offered universal male suffrage, but excluded any form of religious pluralism.³⁴

To recapitulate, although there was common ground among the constitutions of 1848, there were also considerable regional variations, often important ones. All proposed a representative system with a strong monarchical dimension, but they disagreed about what citizenship entailed. All proclaimed the separation of powers, the rule of law and basic individual liberties. The latter were not always clearly defined or enumerated. However, in all cases they explicitly included private property, equality before the law, the right to bear arms for the defence of the state (in the national guard) and the freedom of the press (usually with the express exception of the religious press, which continued to be censored). Moreover, many of these constitutions guaranteed the national debt. They were all concerned to assert the confessional nature of the state and almost all provided direct representation for the Catholic hierarchy within the legislative chambers, often with reserved seats in the house of peers or Senate. However, the constitutions of Naples and Sicily were militantly intolerant in the religious sphere, even more so than the Pope.

The Piedmontese Statute (1848) and the Constitution of the Roman Republic (1849).

Sicily had universal male suffrage, but all the other states had a property qualification for the franchise. As Cavour wrote, 'the electoral functions represent a kind of temporary magistracy' to be exercised by men of proven patriotism. It was not a 'right' of all citizens. However, he argued that 'the larger the number of the citizens able to participate in the elections, the greater the moral authority of the mandate of the deputies, and the real power they wield for the purpose of resisting both the abuse of executive authority and mob rule.' Therefore 'in a good system of representative government the franchise must be extended to all those who can reasonably be presumed to possess sufficient qualifications to exercise it in an upright way without danger to society'.³⁵ This was in keeping with contemporary moderate liberalism in Northern Europe: in fact, Gladstone was to use almost exactly the same formula when defining those who had a right to be allowed within

'the pale of the constitution', in a famous speech in 1864.³⁶ For both Cavour and Gladstone the 'conditions' for admittance to full political citizenship included personal independence and a commitment to upholding the social order. The franchise should be limited, but inclusive in order to create a political system within which the 'public interest' would become the real aim of social interaction, and the rule of law would be established in the hearts and minds of all its citizens. In short, the model of the Piedmontese liberals was the Whig vision of the British electoral system, which came not only with 'negative' freedoms and a restricted franchise, but also with 'neo-roman' civic standards and goals. Thus in 1852 Margherita Provana di Collegno wrote in her diary that 'respect for the law is admirable in England ... [the British] do not consider themselves subject to a king, a governor, or a minister, no, they obey the law, the law which they themselves make through their deputies and representatives in parliament. They respect and venerate the Queen or the King as the guardian of the law'.³⁷

Of all the 1848 constitutions, the *Statuto* of the Kingdom of Sardinia is the most important, historically, because it was the only one to survive beyond 1849 (in fact, until 1947). We have already seen that it was an extremely conservative document by contemporary French or even Italian standards. However, it was also rather vague – which proved a saving grace. In fact its significance for the history of liberty in Italy consists not so much in what it said, but in the legislation which was introduced to 'interpret' and 'clarify' it. For example, art.1 was about the state religion and toleration of other religions, and was almost identical to art.2 of the Parma constitution; it was also similar to the relevant religious clause of the aborted Piedmontese constitution of 1821. It did not establish civil equality for the non-Catholics, and indeed art.28 on the freedom of the press made an exception of the religious press. This included bibles and catechisms, which could not be published without the written permission of a bishop. However, while such a restriction turned out to be totally inapplicable in later years, even before the ratification of the statute full civil and political emancipation was granted to the Protestant Waldensians: as the Royal *Lettera patente* of 17 February 1848 proclaimed, they 'were admitted to the enjoyment of all civil and political rights ... to attend schools and universities and to achieve academic degrees'.³⁸ This *Lettera* was followed by a similar decree extending civil rights to the Jews (19 June).³⁹ Thus the *Statuto* was virtually bypassed by ordinary legislation, a pattern which continued after 1848. The first Waldensian deputy to parliament was elected in 1850. Within a few years all the other Protestant denominations, which then became active in Italy from 1860 to 1861 (including Baptists, Methodists, Plymouth Brethren and others) were effectively granted toleration and freedom to proselytize, despite occasional riots in the South (which, paradoxically, was to become the area of most rapid and impressive Protestant growth by the end of the nineteenth century). Not only could Protestants publish what they wanted, but from 1861 to the end of the century they managed to sell between 30,000 and 50,000 copies of their version of the Bible *each year*: it was probably the only Italian best-seller of the period.⁴⁰

³⁷ *Diario politico di Margherita Provana di Collegno 1852–1856* (Milano, 1926), 33.

³⁸ *Evangelici italiani in Parlamento (1850–1882)*, a cura di G. Lond and D. Maselli (Roma, 1999), xxii.

³⁹ *The Emancipation of Catholics, Jews and Protestants. Minorities in the Nation State in Nineteenth-Century Europe*, ed. R. Liedtke and S. Wendehorst (Manchester and New York, 1999), and most importantly, G. Pécout, *La naissance de l'Italie contemporaine (1770–1922)* (Paris, 1997).

⁴⁰ Between 1861 and 1881 they sold 800,000 volumes, including New Testaments and Gospels: D. Maselli e V. Ghidelli, *La Società Biblica Britannica e Forestiera. 200 anni di storia in Italia* (Roma, 2004), 36–7.

³⁴ *Le costituzioni italiane*, 625.

³⁵ Cavour, *Scritti politici*, 72.

³⁶ 'I venture to say that every man who is not presumably incapacitated by some consideration of personal unfitness or of political danger, is morally entitled to come within the pale of the constitution' (House of Commons, 11 May 1864, cit. E. J. Feuchtwanger, *Gladstone* (London, 1975), 119).

However, such comparative flourishing of new civil rights was not due to the *Statuto*, which remained unclear about the freedoms it enshrined and, among the 1848 Italian constitutions, stood out for being one of the shortest. Of such limitations and the importance of overcoming them Cavour was aware from as early as 1848, when he insisted that the emancipation of the Protestants and Jews by means of royal decree was not enough for a free country, and that instead it should be fully enshrined in the constitution itself 'as one of the fundamentals of the social contract'.⁴¹ He argued that the constitution was 'irrevocable' and 'intangible' only in the sense that 'a nation cannot deprive itself of the freedom to change by legal means its legislation'. Moreover, Parliament was now the seat of such power, which had previously resided in the King.⁴² In this respect the weakness of the constitution allowed for a situation in which monarchist absolutism developed into its parliamentary equivalent, with a *de facto* 'unwritten constitution'. Liberties, rights and entitlements depended on what Parliament decided from time to time, rather than on anything the *Statuto* prescribed. In fact, during the following 80 years, progress in Italian liberty relied chiefly on the ability of successive governments to bypass the conservatism of the constitution by means of ordinary legislation.

As already noted, the approach to citizenship characterizing the Roman Republic of 1849, the main democratic experiment of the Risorgimento, was altogether different. To begin with, it was the only Italian statute of the period to be drafted by a constituent assembly elected by direct universal male suffrage and secret ballot. The deliberations of such assembly continued over a period of five months, from 5 February to 1 July. The Republic had replaced the theocratic regime of the pope and confiscated the property of the church with a view to redistributing it to the peasants. It was therefore revolutionary in social and cultural as much as in political terms. The democratic nature of the state was clearly laid out in the opening articles. Art.1 proclaimed the sovereignty of the people; art.2 established the fundamental principles of the republic, which were equality, liberty and fraternity (in this order). The reference to these concepts in the first two articles was in itself indicative of the priorities of the Roman Republic being completely different from the confessional concerns of the other Italian states. Citizenship was granted to all Italians resident within the territory of the state for at least 6 months, the franchise to all male citizens above 21 years of age and the right to stand for parliament, to all males over 25.

The constitution dealt with the controversial confessional question by stating simply: 'Religious belief does not affect civil and political rights.' Art.8 offered to 'the Head of the Catholic church' 'all the guarantees for the independent performance of spiritual power'.⁴³ This made the 1849 Constitution the first and only Italian attempt to 'privatize' religion by excluding it from the public sphere. This was closer to the spirit of the US Constitution than Mazzini's dream of a Transcendentalist religion of humanity, but the latter influenced the constitution's assertion that life must be regarded as sacred, with the result that the Roman Republic abolished capital punishment. Such an emphasis on human rights permeated the document, and inspired both the Republic's approach to external relations and its definition of the domestic working of the state: thus the '4th fundamental principle' proclaimed the sisterhood of nations and respect due to all countries. Moreover, the 5th proclaimed the equality and autonomy of all the municipalities of the Republic, a principle reminiscent of the recommendations of Carlo Cattaneo (1801–1869) that a democratic state should be based on local self-

government rather than on the French model of the supremacy of the central bureaucracy. However, there were a few minor affinities with the Constitution of the French Second Republic. In particular, both referred not only to the citizen's rights, but also to his duties, and both made a commitment to 'improving the moral and material conditions of the people' (although only the French proclaimed right to work and public assistance for the unemployed). In religious matters, while as we have already seen, the Roman Republic adopted a US-style form of separation, the French continued the practice of the July Monarchy (going back to the legislation of 1790) and guaranteed that the state would pay the stipends of ministers of all religious denominations. Paradoxically, and significantly, the Roman Republic was destroyed by an expeditionary force sent to restore papal theocracy by the French Republic.

Conclusion

The defeat of democracy in 1849 had important consequences for the way liberty and citizenship were conceived in Italy. The first ideological casualty was federalism – in both Gioberti's neo-Guelph version and in Cattaneo's democratic alternative. From 1849 the pursuit of national independence was dominated by military, rather than civic, priorities, and required a unitary constitution. Even the democrats, when their opportunity came again – in 1860, with Garibaldi and the red shirts – created a centralized provisional government in Sicily. After the creation of the Kingdom of Italy in 1861, this resulted in the adoption of Jacobin methods for propagating a substantially liberal-conservative notion of citizenship.

Moreover, the defeat of 1849 destroyed the credibility of the neo-Guelph strategy of an alliance between liberal nationalism and the Catholic Church. Even Gioberti repudiated this plan in the 1850s. The irony was that, despite the rhetorical and literary success of Gioberti's *Primato degli italiani* between 1843 and 1848, Catholic liberalism had always been less successful in Italy than in other countries such as France (with Lammennais and Montalambert), Ireland (with O'Connell) and Belgium. By 1849 it was quite clear that, far from being a national 'primacy', Catholic liberalism could hardly survive in the Peninsula precisely because of the temporal power of the Pope, who was now more convinced than ever that his political interests were incompatible with constitutional government and required the continuation of Austrian political control over Northern Italy. The Catholic movement, which had been essential to the initial success of the revolution in 1848, now had to choose between loyalty to the Pope (which meant accepting foreign interference and domination) and anticlericalism. The latter became increasingly popular largely because of the intransigence of the church hierarchy. By the same token, liberty and citizenship – which, as we have seen, had originally focused on 'neo-roman' values – now acquired a stronger orientation towards individual and civil rights, culminating in Cavour's struggle for free churches in a free state, from 1852 to 1855.⁴⁴ His campaign to establish *la laicità* (best translated as 'the non-confessional nature' of the state) was continued by his successors until 1929, after which many of their achievements were reversed by Mussolini. The question of *la laicità* had wide relevance and concerned the type of 'national character' which the ruling elite desired to encourage.⁴⁵ It affected both men and women irrespective of whether or not they were politically aware, and therefore was more subversive than any other contemporary political theory.

⁴¹ Cavour, *Scritti politici*, 188 (18 May 1848). On this issue see the classic study by G. Spini, *Risorgimento e Protestanti* (Milano, 1989, first published 1956).

⁴² Cavour, *Scritti politici*, 99.

⁴³ *Le costituzioni italiane*, 614–5. On this topic see I. Manzi, 'La repubblica romana del 1849: stato confessionale o stato laico?', *Il pensiero mazziniano*, 4/2002, 55–61; A. Patuelli, 1848–49: *le costituzioni di Pio IX e di Mazzini* (Firenze, 1998) and I. Manzi, *La costituzione della Repubblica romana del 1849* (Ancona, 2003).

⁴⁴ His speeches on the subject have been collected in *Libera chiesa in libero stato*, a cura di S. Valitutti (Roma, 1970).

⁴⁵ R. Romani, *National character and public spirit in Britain and France, 1750–1914* (Cambridge, 2002); and D. Raponi, 'Britain and the Roman Question, 1860–1870' (University of Cambridge, Ph.D. thesis, 2009).