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The Politics of Enlightenment

Republicanism, Constitutionalism, and the Rights of Man in Gaetano Filangieri

VINCENZO FERRONE

Translated by
SOPHUS A. REINERT
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When Johann Wolfgang von Goethe visited Naples on his Grand Tour of Italy in 1786–1788, he was above all struck by his meetings with the ‘remarkable’ Gaetano Filangieri, heir of the Princes of Arianello, ‘one of those noble-hearted young men to whom the happiness and freedom of mankind is a goal they never lose sight of.’ Baffled, he could only admit that he had ‘never heard Filangieri say anything commonplace.’ From Goethe, this was quite a compliment. At the time, the young Neapolitan he frequented was principally lionized for his massive *Science of Legislation*, one of the most influential works of eighteenth century legal, political, and economic thought, translated into every major language in the European world and published in at least seventy different editions. Luminaries like Benjamin Franklin, who upheld a lengthy epistolary with Filangieri, found the *Science of Legislation* an ‘invaluable work,’ wishing for more volumes of it in the wake of the 1787 Constitutional Convention, but it also had popular appeal enough to be included in circulating libraries. In 1806, the *Edinburgh Review* called Filangieri’s magnum opus ‘a work of philosophical excellence, which bears the traces of much learned research, and breathes, in every page, sentiments of the purest virtue, mingled with an undaunted spirit of liberty, and zeal for the improvement of mankind.’ Indeed, Filangieri was a man it was ‘impossible to venerate too much.’ Though largely neglected in contemporary Anglophone scholarship, Filangieri was in effect a titan of his age, hailed, in Franco Venturi’s celebrated geography of ‘The Enlightenment,’ from St. Petersburg to Philadelphia. What follows is the most incisive study to date of his contributions to that complex phenomenon and its legacy.

This book first appeared in 2003 under the title *La società giusta ed equa: Repubblicanesimo e diritti dell’uomo in Gaetano Filangieri*, sparking a major and fruitful debate in the country’s leading journals and in academic monographs, and has recently been translated into French. Its author, Vincenzo Ferrone, Professor of History at the University of Turin, ranks among the greatest Italian historians of his generation and is the author of numerous studies on the eighteenth century, among which one of the most magisterial works on the Neapolitan Enlightenment published in any language. An in-depth analysis of Filangieri’s seven-volume *Science of Legislation*, the first ever critical edition of which recently was published under the supervision of Ferrone himself, the present study builds on his earlier works to re-draw the map of Enlightenment republicanism, the tenuous relationship between Enlightenment, reform, and revolution, and the early history of human rights and their political economy. For though the book’s emphasis is on Naples, and one of its tasks is to widen our geographical understanding of the eighteenth century,
it also speaks right to the core of modern historiography on several subjects. Among the major themes with which it engages are Montesquieu’s polyvalent influence on the development of Enlightenment political philosophy, the intricate relationship between natural law and natural rights (later human rights), and the emergence of an idiom and a theory of constitutionalism as the only safeguard against absolutist abuses and democratic excesses (whether due to communitarian zeal or the influence of charismatic leaders). What Ferrone offers is an alternative vision of the late Enlightenment, seen from the vantage-point of Naples rather than Paris or Edinburgh, and its bequest to the modern world, as well as a fresh look at the ambiguous and ever vexing relationship between liberal individualism and republicanism at the time. The Enlightenment was a variegated phenomenon, and Ferrone’s book reminds us of precisely how rich and polyglot its origins and legacies were.

In his 1969 G. M. Trevelyan Lectures at the University of Cambridge, Venturi warned that the ancient and Renaissance ideals of republicanism had been overcome in the eighteenth century. Picking up on his mentor’s work, Ferrone’s book re-constructs a long forgotten tradition of Enlightenment constitutional republicanism, and its political economy, in eighteenth century Italy, a tradition which differentiates itself greatly from the better-known republican traditions explored by the likes of J. G. A. Pocock and Quentin Skinner by the fact that it grounds itself, not in a moralistic conception of a virtuous community derived from the experiences of Greece, Rome, or the city-states of Renaissance Italy, but in the *avant-garde* of Enlightenment ‘human rights’ theory developed by the heirs of the Neapolitan Antonio Genovesi, Italy’s first professor of political economy. Filangieri was perhaps the theorist in this tradition who went the furthest in anchoring his political paradigm in a theory of unalienable rights explicitly argued to be shared by all human beings, no matter their creed, their politics, or the colour of their skin. As such, though the origins of this ‘democratic’ tradition of liberal republicanism are deeply historical and contingent, its appeal was – and, as Ferrone makes clear, indeed still is – intended to be universal.

As a means of elucidating this forgotten tradition, Ferrone’s wide-ranging study deeply contextualizes Filangieri’s work in terms of the cultural, legal, and political histories of eighteenth-century Naples and, later, early nineteenth-century Paris. In particular, it analyzes one of the most extraordinary receptions of the American Revolution in Europe, highlighting the importance of American independence for the maturation of a Neapolitan tradition of theorizing politics on the foundations of universal human rights and a written constitution, and what they in turn entailed for the very nature of republicanism itself. But this was no monologue. Rather, Ferrone argues it was a transatlantic dialogue in which Filangieri played an inspirational part in the foundation of modern republicanism, not the least by theorizing the possibility, against the influential arguments of Montesquieu and Rousseau, of truly continental political communities. His republicanism was not for the elites of small cities, but for the citizens of vast nations. Ironically, given Filangieri’s extraordinary insights into the modern political condition, Naples was also, to a far greater extent than other centres of the European Enlightenment, still thrall to the institutional cluster known as ‘Feudalism,’ and Ferrone lucidly explains Filangieri’s influential polemic with Montesquieu against
the background of this particular organizational heritage. Building on the seminal work of Margaret C. Jacob and others, he weaves this account into the rich tapestry of Neapolitan Freemasonry and the means by which new patterns of sociability functioned as a school of political theory and practice. Eminently well read, Filangieri drew on a wide array of canonical sources – Machiavelli, Locke, Grotius, and Pufendorf – but also on an extraordinary local tradition of political and economic thought developed by followers of Giambattista Vico and Genovesi, which allowed him to formalize a transition from doctrines of natural law to a prescriptive analytical framework of human rights, theorizing a form of liberty based on individualism and the ‘right to happiness’ within an overarching scheme of modern republicanism.11

The second part of the book deals with Filangieri’s legacy, engaging both with his immediate heirs, like Francesco Mario Pagano, drafter of the short-lived Neapolitan constitution of 1799, and his detractors, like the conservative Vincenzo Cuoco, unveiling a world of themes and authors rarely mentioned in Anglophone scholarship. The book ends with significant chapters on Filangieri’s reception in France and in Europe at large up to the time of the 1848 Revolutions, focusing on Benjamin Constant’s little understood critique of Filangieri and the tensions between the constitutional republicanism of the late Italian Enlightenment on the one hand and the nascent tradition of liberalism on the other. In doing so, this book not only explains the common roots of these two traditions, but also why they diverged and with what consequences for Italian and European history. This is one of the book’s most intriguing aspects, shedding important light on a debate which generally is examined only from the perspective of its ostensible victor, Constant, whose willful misrepresentation of the Science of Legislation was consequential for the development of economic, political, and legal thought in Europe, not to mention for our understanding of Filangieri himself. This brings Ferrone to a lengthy discussion of the tensions between liberalism and poverty, particularly as manifest in the debate over the ‘right to work,’ as well as between patriotism and cosmopolitanism in the Italian republican tradition, themes all too relevant in today’s historiographical landscape. The book ends with an assessment of Filangieri’s eventual contribution to these debates and to the institutionalization of the rights of man as a political category and an exigency of political economy in Enlightenment Europe.

I have strived to convey Ferrone’s unique voice in translation, and he has personally approved all deviations from the original text. As anyone who knows him might have guessed, he has been an extraordinary presence in the process of translating his book, always eager to discuss the minutest points. I am grateful to Antonella Emmi and Kaitlyn Tuthill for invaluable copyediting, to Robert Fredona for lengthy comments, and to Tej P. S. Sood for editorial support and remarkable flexibility. In her introduction to the English translation of Ferrone’s Scienza natura religione: Mondo newtoniano e cultura italiana nel primo Settecento, written nearly three decades ago, Margaret C. Jacob thanked him for making her ‘think less provincially.’12 It is a sentiment with which we all, still, can identify.

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Preface

A WORLD TO REDISCOVER:
THE ENLIGHTENMENT ORIGINS OF
MODERN ITALIAN REPUBLICANISM

What did politics mean to the men of the late Enlightenment? Was theirs a singular and independent conception? Did it differ in practices, discourses, representations, and language from what would be developed in the revolutionary period to come? What forms of struggle, what tasks and, above all, what limitations in their way of conceiving politics confronted them in those last, tormented years of the Old Regime? What shape did the newfangled republican and constitutional patriotism take between the American and French Revolutions, between 1776 and 1789, in those enlightened circles which presciently warned of the threat of that despotism which, as the freedoms of antiquity were reasserted for modern times by Rousseau and his many followers, was seen lurking in the eighteenth-century revival of so-called classical republicanism? Through which paths and what struggles were the language of the rights of man, a form of republicanism apt for the modern world, and Enlightenment constitutionalism created, and developed, in Italy? Is there a relationship between the political culture of the late Enlightenment and the genesis of the Italian democratic and republican tradition? This book endeavours to answer these and other questions by formulating some working hypotheses based on the achievements of the new cultural history of the Enlightenment and by developing themes and issues that I have tackled in the past. The entire work, however, centres first and foremost on the analysis and study of a personal history and an important publishing event (together providing the unifying thread guiding this investigation through the labyrinthine politics of the late Enlightenment) which caused a sensation in Europe at the end of the eighteenth century: Gaetano Filangieri’s publication of the *Scienza della legislazione* (*The Science of Legislation*) in Naples, in the spring of 1780.

This work, which today is all but forgotten and which still lacks a good critical edition, was, in fact, a resounding bestseller in the decade prior to the French Revolution, talked about with both admiration and surprise by all the scholars of the day. At this crucial moment in European history, it was no accident that translations promptly were undertaken into all major Western languages, and that reprint upon reprint followed in subsequent years. This book on Filangieri attempts to explain the many and diverse reasons for its Italian and international success. A primary reason is, naturally, the ability of the author – who proudly declared himself a ‘cosmopolitan’ – to address men of every nation without ever losing sight of his own origins in Naples’ great juridical, political, and philosophical culture. There, Giovanni Vincenzo Gravina, Giambattista Vico, and
Antonio Genovesi had been the first in Europe to engage with the issue of how to create a just and fair society in light of the rights embodied in the natural law tradition of Hugo Grotius and Samuel von Pufendorf. ‘The work,’ the French translator Jean-Antoine Gauvin Gallois wrote, of which we offer the public a translation, began to appear in Italy in 1780. Five editions, published successively in Naples, Florence, and Milan, attest to the celebrity that it enjoys in that country on earth in which the science of the rights and duties of man is cultivated with greatest ardour and, perhaps, even with the greatest success.7

It was the sophistication of this political-cum-juridical investigation into the subversive potential of the language of the rights of man, into the necessity and possibility of embodying them in constitutional form, clearly set forth in the author’s new conception of the science of legislation, which fascinated his contemporaries, who were ever more shaken by the events of the revolution.8 Unlike that other great Italian man of the Enlightenment, Cesare Beccaria, who was more influenced by utilitarian thought than by philosophical reflection, Filangieri took European natural law to its highest degree of theoretical development. His German translators were well aware of this. They presented his works as not only those of a jurist but also, more generally, as those of a political writer (‘politischer Schriftsteller’).9 They highlighted the original historical framework of natural law propounded by the Neapolitan school, Filangieri’s cultural heritage, and compared it to the prevailing rationalism of the interpretations formulated in Northern Europe.10

The jurists of Göttingen and Nuremberg were most impressed by the publication of the third volume of the Scienza della Legislazione. This was entirely devoted to criminal codes and procedures, was grounded in the theory of natural rights, and embodied the first rigorous attempt to develop the right to punish in a republican manner. It reconsidered the very foundations of justice from the basis offered by the principle of equality before the law. In France, Filangieri’s work elucidated the republican and fair nature of the accusatorial system, not only to a host of magistrates but also to public opinion in Paris, while simultaneously exposing the violation of the rights of man involved in the ferocious inquisitorial procedures of old. So when Napoleon Bonaparte, then First Consul, solemnly received Filangieri’s widow and children at an official ceremony by recalling ‘this young man who is a master to all of us,’11 he was doing nothing more than publicly acknowledging the debt which the French Revolution owed to the Scienza della legislazione.

As we will see in Chapter Ten, this was evidently an enduring and deeply felt debt if Benjamin Constant, while recognizing the merits of his adversary, still felt compelled to attack the political and constitutional conceptions of the young Neapolitan philosopher in 1822 and again in 1824. In this way, Filangieri became the main target of a sort of generational reckoning between the advocates of the nascent liberal ideology and the direct heirs of the glorious Enlightenment tradition.

The monumental Scienza della Legislazione was the culminating treatment of late Enlightenment political thought. By successfully moving beyond both Montesquieu’s class-based conceptualization of the Old Regime and his concessions to the legacy of feudalism, as well as the classical republicanism of Rousseau, Filangieri became one
of the ‘greatest publicists of Europe, the one who has most contributed to shaping the spirit of his century.’

The fame of certain pages he wrote spread across the continent: on the necessary connection between morality and politics; against the hereditary conception of nobility; on the arbitrary and anti-economic nature of the feudal system; on the privileges of birth; on the central place of Roman republican law in the new enlightened constitutionalism; on the harm done to individual rights and freedom by an excessive concentration of wealth in the hands of the few. Radicals across the Channel were impressed by that ‘political philosopher’ who once again dared – after the failed attempt of the 1649 revolution – to demand the abolition of the House of Lords, and who exposed the limitations of a mixed government and the contradictions inherent in British constitutionalism by comparing it to the extraordinary political experiment in representative democracy pursued by the American insurgents.

Nevertheless, despite my realization that a study of the *Scienza della legislazione*’s international success brings to light a fundamental element of the genesis of modern European republican and constitutional thought, my book deals only marginally with that question. My most pressing concern is to present the overall design and the specific content of the work in the light of the context that brought it into being and of the strategic role it ended up playing in the tumultuous history of late eighteenth-century Italy. Filangieri’s story is a paradigmatic example of how, under the influence of tenacious political and ideological prejudices, historiography has generally misunderstood or, more often than not, deliberately mystified the *vexata quaestio* of the relationship between Enlightenment and Revolution. In Italy, this question has always been interpreted through an analysis of the so-called Revolutionary Triennial sparked by the French invasion (1796–99). The ostentatious ceremony in Filangieri’s honour conducted by the government of the Neapolitan Republic of 1799 produced what we can only call his ‘Pantheonization.’ While this, on the one hand, made the young philosopher into a legendary hero of Jacobinism and revolution, on the other it condemned his *Scienza della legislazione* to a sort of oblivion and greatly impeded the circulation of his work, which represented the best of the political thought produced by the Italian Enlightenment.

The words of Vincenzo Russo, calling upon the members of the provisional government to erect a statue to the eternal memory of Filangieri’s works, banish any doubts that the revolutionary experience had its roots in the soil of Enlightenment. Wholly caught up in the propaganda requirements of the moment, Russo proclaimed that Filangieri’s volumes should be ‘considered one of those banners raised to the revolution before the vast assembly of mankind, under which millions of men would come to swear before the Universe their desire to live freely or die’; ‘Let us make a public and solemn vow that a bust of the author of the *Scienza della legislazione* will be placed in the National Chamber and in a temple of immortality whose very existence alone will ensure that it will soon be populated with heroes.’ Thus, in short, the same volumes which, in the 1780s, had represented the core of the project drawn up by Italian Enlightenment circles, in harmony with the governments of the peninsula, took on a new life in the changed historical context brought about by the Grande Nation’s military invasion, feeding the hopes of those who, in previous decades, had dreamt that gradual reforms could lead to a bloodless transformation of the unjust Old Regime. Nevertheless, the new historical role
that Neapolitan republicans now assigned Filangieri’s ideas should not have prevented
scholars from distinguishing between his actual political thought and the uses made of
it in the 1799 Revolution. Similarly, they should never have confused the emancipatory
political project of the Enlightenment with the different, autonomous cultural forms that
subsequently would evolve in the revolution. Instead, after the cruel Bourbon repression
and the changed intellectual climate of the Restoration, this distinction would never be
again made. All the men of the late Italian Enlightenment who had played a leading role
in the events of the ‘Triennial Republic’ were automatically dismissed as Jacobins, as
foreigners in their own homeland and uncritical followers of French fashions and ideas.
In the twentieth century, through a paradoxical convergence of the historiographies of the
political left and right, of moderate liberals and Neo-Jacobins of Marxist orientation, the
direct linkage and continuity between the Enlightenment and the Revolution continued
to represent a kind of impenetrable interpretative paradigm, which allowed the former
to condemn both experiences as one and the same, and the latter to lay claim to a noble
inheritance.15

Though acknowledging the tempestuous events of the Neapolitan Republic as the
‘sacred origins of the new Italy,’ the celebrated Benedetto Croce had, to some extent,
outlined this victorious interpretative model of that decisive stage in Italian history by
stating that ‘the Neapolitan patriots were great idealists but bad politicians,’16 generous
in their Utopias, but also politically naïve in having relied on a foreign power to realize
their plans. From the height of his refined idealistic historicism, aimed at ‘understanding’
and ‘transcending’ the era of the Enlightenment, he pointed to Vincenzo Cuoco and the
exponents of the budding tradition of liberal ‘moderatism’ as the real spiritual fathers of
modern Italy.17 In the temple of national glories, among the immortal pillars of Italy’s
new historical identity as the culmination of the Risorgimento, Croce gave pride of place
to the great masters of political realism, to men like Machiavelli, Vico, and Cuoco. Despite
the efforts of Pasquale Villari to argue for his originality,18 Filangieri was excluded again,
confined to the shadows in which nineteenth-century historians had placed him.19
Historical honour and respect certainly were paid to that young intellectual, the younger
son of Cesare Filangieri, Prince of Arianello, and Marianna Montaldo of the Dukes of
Fragnito, who died, without having completed his monumental work, at the young age of
36.20 Yet, no genuine attention was really given to his political thought, which had been
dialectically surpassed by history and by the mysterious workings of the evolutionary
phenomenology of the spirit.

By polemically placing the autonomy and supremacy of the so-called Jacobin
Triennial at the centre of the national debate, and making it the origin of Italy’s
democratic tradition, Marxist historiography did nothing, in the wake of World War II,
to rediscover the republican and constitutional political thought of Filangieri and of the
late Enlightenment.21 While such research can be credited with bringing to light a world
previously ignored by traditional historiography, stressing the events of the revolution
as well as the culture and writings of lesser protagonists who in Italy reiterated, with
varying degrees of originality, the conflicts, the theoretical developments, and the forms
of struggle typical of the Paris of Robespierre or of the Directory, it indirectly succeeded
in obscuring even further the unique identity of, and the political programmes pursued
by, the men of the Enlightenment. Moreover, this emphasis glossed over the crucial fact that, before becoming dangerous revolutionaries, the followers of Filangieri who led the provisional government of the Neapolitan Republic of 1799 had been enlightened reformers, not given over to abstraction and excess. It was, in fact, the sudden change of context following the French invasion that forced them to make critical choices. And if they were to remain true to their ideals of reform and the overthrow of the Old Regime, these choices had to be made in the face of the violent, despotic reactions of the Bourbon government. So it is not only reductive but also historically inaccurate to see nothing more than the last, convulsive episode of the Italian Revolutionary Triennial in the violent repression carried out by the Bourbons, in the ferocious executions which, week after week, performed the macabre ritual of death in Piazza Mercato in Naples, in the over eight thousand trials, in the innumerable sentences of exile, and in the white terror of the bands of Cardinal Ruffo. Rather than representing the symbolic end of the Republic, the hanging of the great jurist and philosopher Francesco Maria Pagano, faithful pupil of Filangieri, head of the Neapolitan patriots, and author of the first truly modern constitution drawn up in Italy, instead marked the dramatic, bloody conclusion of the peninsula’s long Enlightenment. This sequence of events demands an in-depth study covering the last quarter of the century, but especially the crucial ten years from 1789 to 1799, when the original reform project of the Enlightenment slowly was extinguished in the harsh confrontation with revolutionary events taking place in Europe. Only in this way can we avoid making it a mere appendix (in accordance with the classical interpretation developed a posteriori by reactionary historians) to the history of the French Revolution. In light of recent studies, we are beginning to realize ever more clearly that those ten years represented something much more akin to a laboratory of Italian modernity, bursting with energy. It was at this time that current forms of communication and political struggle came into being; that the network of lay and Catholic associations rapidly developed, making the emergence of public opinion possible; that the age-old Italian publishing system expanded to a scale and took on tasks never before seen. As we will endeavour to explain, it was precisely in that turbulent period that the intellectual seeds of a great political and constitutional debate were to take root and grow into the republican and democratic traditions of contemporary Italy.

One person who understood the importance of the Enlightenment experience for modern Italian history – and therefore the need to reassert its specific autonomy from models and conceptualizations framed both by liberal and Marxist historiography – was Franco Venturi. He constantly insisted on the need to study the Enlightenment in order to understand ‘the rise of the political, economic and social ideas of the last two centuries of our modern era.’ Much of his extraordinary work as founding father of Italian democratic historiography was in this way devoted to reconstructing the culture of the Enlightenment in Italy and in Europe, and to investigating its decisive role, to define more clearly the problems that still beset us today. Yet, that imposing work of reconstruction seems at times to have been forgotten, quietly and inexplicably put aside in recent attempts to conduct a comprehensive revision of Italian history. Once again, the experiences of people like Cesare Beccaria, Pietro Verri, and Antonio Genovesi are, if not excluded, seriously underrated in the traditional, time-honoured enumerations of the