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Contemporary of every age: Gaetano Filangieri between public happiness and institutional economics¹

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[As long as] the evils which afflict humanity are not yet removed;
errors, and prejudices which perpetuate errors, have their advocates and partizans;
and truth is known but to a few privileged individuals,
and is still kept at an awful distance from the thrones of kings,
it is the duty of the scholar and the sage to endeavour to eradicate the former,
and to proclaim, support and illustrate the latter.
If the lights they scatter are not useful in their own times, and their own country,
they may enjoy the certainty of having served other countries and succeeding generations.
Citizens of the world, they are contemporaries of every age,
the universe is their fatherland,
the earth is their school, and posterity will be their disciples.

Gaetano Filangeri, *The Science of Legislation* [Translation by Richard Clayton, 1806]

Abstract

In the decades around the turn of the eighteenth century, Naples was capital of the Kingdom of the Two Sicilies and Europe's third most populous city. From the early decades of the eighteenth to the end of the nineteenth century, the city spawned a school of intellectuals that, though predominantly juridical in cast, nevertheless displayed a surprisingly substantial openness to a new approach to the social sciences, which had developed above all in France, heavily influenced by the natural sciences and the experimental method. In harmony with Enlightenment thought, Gaetano Filangieri was the precursor, two centuries back, of the principles of indissoluble interaction between formal and informal institutions and economic development, between governance and social feedback, that are pillars of today's school of institutional economics. His writings anticipated, in a number of respects, conceptual approaches adopted by later scholars. The present paper offers an institutional focus on his work, referring above all to Douglass North and his treatment of the role of the Glorious Revolution.

¹ This paper is a thoroughly revised and extended version of Balzano and Vecchione (2015), Gaetano Filangieri e l'istituzionalismo economico, *Rivista economica del Mezzogiorno*, 29 (3-4), 583-612, Il Mulino, Bologna. We decided to extend and translate the original version because we believe that the work by Filangieri deserves an international visibility in the academic community.

1. Gaetano Filangieri: Life and historical context

Gaetano Filangieri was a leading exponent of the Neapolitan Enlightenment, well known abroad and engaged in an epistolary relationship with Benjamin Franklin during the years of the American Declaration of Independence. His writings anticipated, in a number of respects, conceptual approaches adopted by later scholars.¹ The present paper offers an institutional focus on his work, referring above all to Douglass North and his treatment of the role of the Glorious Revolution. After a brief biography in section one, his intellectual profile is traced in section two. Section three sets out the main aspects of his work, and section four connects his thought with the school of institutional economics. Section five recounts the events that led to the rise and fall of the Parthenopean Republic in 1799, and section six concludes.

The third of eleven children of an ancient, noble house of Norman origin, Gaetano Filangieri (born Cercola, 1753, died Vico Equense, 1788), though he was given the traditional strict military education of the younger sons of the nobility, turned at a very young age to the study of law, philosophy and politics. In 1774, at just 22 years of age, he published his reflections on questions of domestic politics. His intelligent exposition won approval and agreement on many fronts, in Italy and abroad (Ferrone, 2003). The widespread praise for Filangieri drew the attention of the Bourbon court, and in 1777 he was named Majordomo of the Week and Gentleman of the Chamber, as well as Officer of the Royal Corps of “naval volunteers” at the service of King Ferdinand IV of Bourbon, the son of Charles III of Spain (Filangieri, 2003). During the formative years for Filangieri’s thought, the monarchies and principalities of Europe had to confront the ideas of liberalism and democracy espoused by the thinkers of the day, who were not dissuaded by the barriers of censorship, as Filangieri himself recalled:

“ the obstacle now surmounted is by no means inconsiderable. We have assumed the right of thinking and writing with a freedom that does equal honor to the Princes who permit, and to the subjects who use their permission with propriety and advantage” (Filangieri, 2003, p. 3) [Translation by W. Kendall, 1791].

From Sweden to the Grand Duchy of Tuscany, from the Russia of Catherine the Great to the Austria of Maria Theresa of Habsburg, everywhere it was plain to see that the various sovereigns were seeking to digest the intellectual elaborations of English writers like Locke, Hume and Blackstone, which had fertilized the minds of such French *philosophes* as Montesquieu, Rousseau and Diderot, spreading then through the most of Europe. Subsequently labelled as enlightened despots, some of these sovereigns of the late eighteenth century were distinguished by their reformist ideas; their abandonment of the dogmas of crown and church and their advocacy of the principles of *ratio* drew them away from the anachronistic heritage of the Middle Ages. On such auspices of a renovation of

governments, Filangieri undertook his monumental *Science of Legislation*, in which the ideas of the enlightenment thinkers of Europe, but, above all, of thinkers close to his own life, like Giambattista Vico and Bernardo Tanucci,² merged with his concrete experience of the Bourbon court.

Filangieri's entry into the royal entourage took him to the center of the artificial world of the courtesan, in close contact with the great corruption revolving around the Bourbon crown. The lack of a stable bourgeois class in mid-18th-century Naples (Cuoco, 1980), the survival of a feudalism that had already been abandoned in the northern part of Italy (V. Zamagni, 2017) and the feelings of mistrust and extraneousness with respect to public institutions (Macry, 2012) rendered the distance between the aristocracy and the average citizen, between the noble palaces and the misery of many city streets, palpable. All this, together with the evident conditions of degradation observable both in and outside the kingdom's capital city, further underpinned the critical approach of his intellectual mission. The initial sections of the *Science* came out in 1780 (Filangieri, 2003).

Unfortunately, Filangieri's dedication to an ideal born in his youth and maintained with constancy soon had to reckon with health problems that worsened steadily with the passage of time. His marriage in 1783 with Countess Caroline Fremdel of Pressburg, who was in Naples in the entourage of Queen Maria Carolina of Austria, allowed him to move to the relative quiet of Cava dei Tirreni and rest from courtly society. During his absence from the Bourbon court, Filangieri unflaggingly composed new parts of his work, completing the third and fourth books, but without renouncing the company of friends and admirers; he made Cava the destination of an intellectual pilgrimage (D'Alessandro, 1994). Unfortunately, his courtly commitments tore him away from the solitude of Cava and brought him back into the royal entourage in 1787, to take part in the Supreme Council of Finance. He was therefore obliged to move back to the palace of his older brother Cesare in the heart of Naples. Unhappily, his failing health could not withstand the pace of his heavy courtly work load. So he decided to ask for a royal permit of leave in 1788 to go to Vico Equense, in the castle of his sister Teresa, a healthier environment. However, his health did not benefit as hoped from rest and the clean air of the peninsula of Sorrento, and on 21 July 1788, a few months after his arrival, he died in that castle at the age of just 35.

2. Gaetano Filangieri: civil enlightenment thinker

In the decades around the turn of the eighteenth century, Naples was capital of the Kingdom of the Two Sicilies and Europe's third most populous city, behind London and Paris (Malanima, 2006). From the early decades of the eighteenth to the end of the nineteenth century, the city spawned a school of intellectuals that, though predominantly juridical in cast, nevertheless displayed a

surprisingly substantial openness to a new approach to the social sciences, which had developed above all in France, heavily influenced by the natural sciences and the experimental method. The leading jurists thus began to grapple with political science, commerce, and the economy, at the same time as Adam Smith was drafting and publishing *The Wealth of Nations*, which laid the groundwork of modern economics (Amatucci, 2010). Antonio Genovesi, Gaetano Filangieri, Giacinto Dragonetti, and Ferdinando Galiani were some of the scholars who made eighteenth-century Naples a lively workshop of ideas, markedly liberal and egalitarian; together with their colleagues of the Milanese enlightenment, they founded the school of “civil economy.” This paradigm of economic thought fell into protracted oblivion, mostly because it was foreign to the Anglo-American mainstream of the nineteenth and twentieth centuries (Bruni and Zamagni, 2013). Among the major works of this period, certainly one of the most outstanding is Filangieri’s *Science of Legislation*, written between 1780 and 1788.

The fervor of the Enlightenment, which swept through the nations of Europe, including the Kingdom of the Two Sicilies, inspired Filangieri’s effort to draft a clear and simple text that could serve as a guide to the monarchs of all of Europe in producing laws and codes observant of the principles of reform that it was his intent to introduce (Filangieri, 2003). This Enlightenment inspiration found fertile terrain in the debate, dominant in the economics literature of the eighteenth century, over the motivations of human action in an economic system. Alongside self-interest, the Italian enlightenment school also recognized the existence of higher motivations bearing on the public interest, or “public happiness”.³ Defining the obstacles to the pursuit of this public happiness, which Filangieri called the “happiness of peoples” and which consisted in the positive interaction between government action and popular response, and designing the reforms necessary to its attainment provided the impulse for him, from his youth, to produce a “universal” work, one that he conceived as valid for all realms and every time. It has been argued that the five books of *The Science of Legislation*, given their fame and the universal concepts espoused, inspired some of the historic socio-political acts of the late eighteenth century, such as the Declaration of Independence by the American colonists, the French Revolution, and above all the Parthenopean Republic of 1799 (Ferrone, 2003).

The Science was considered immediately as a complex work with a multidisciplinary framework. The main topic of European legislation, in fact, intersects repeatedly with empirical studies on the conditions of the population in the Kingdom of the Two Sicilies. Focusing in particular on the Neapolitan community, Filangieri denounced the severe discrepancy between the necessities of the great majority of people and the inappropriate solutions offered by existing laws and developed a

rational, constructive criticism of the inefficacy of Bourbon governance due to its tendency to maintain archaic, anachronistic practices (Ferrone, 2003). His juridical and philosophical training, drawing above all on the teachings of Montesquieu and Antonio Genovesi (Bruni, 2006), enabled him to develop profound insights into such highly delicate issues of the day as feudalism and ecclesiastical donated properties. His approach to the problems of Naples at the end of the century was original, and above all modern and liberal.⁴

In view of the foregoing, it cannot be considered inappropriate to compare Filangieri's method of inquiry and research to that of the institutional school of economics. A number of analysts of the Neapolitan school of civil economy of which Filangieri was a leading exponent (Bruni, 2006; Becchetti, 2011; Bruni and S. Zamagni, 2013; V. Zamagni, 2017) have emphasized the centrality in this school of the themes of public and private trust, confidence in public institutions, happiness and reciprocity. Yet as far as we know, no study has related these themes more specifically to Gaetano Filangieri, although he often explicitly connected his thinking to "confidence" and "public trust" as both preconditions and indispensable results of effective governmental action. Further, with his teachings and admonitions, Filangieri was one of the first scholars to consider informal institutions, which he traces to social customs, as it can be seen in the following passage:

"Experience itself, on the contrary, is what shows me the impotence of law without custom. It is what shows me how in a corrupt society the very remedies to the corruption of the people become a source of corruption" (Filangieri, 2003, p. 285) [Own translation].

He confirms, in accordance with his enlightenment viewpoint, the supremacy of the rule of law and of formal institutions in theory, but he observes that customs often prevail over the law in practice. This contrast between two principles is recurrent in his work on other themes as well, and it is precisely in this multifaceted visions that we find the essence, and perhaps the greatness, of this author. Filangieri was certainly a liberal thinker of the natural law school (Pecora, 2003), a proponent of free enterprise and the abolition of all privileges, an advocate of free trade, a friend of the American patriot Benjamin Franklin; but he also preached the necessity of pursuing the prosperity of the entire nation with economic policies for redistribution, directed to the common good. He was a mason, a leading figure in the Neapolitan masonic lodge, but also an intellectual forged by the teachings of two learned Benedictine monks; a man who worked tirelessly and with a strong institutional sense at court during the reign of Ferdinand IV, but who in private, in letters to his friends, voiced his profound impatience with the hypocrisy, arrogance and superficiality of the courtesans and councilors of the Kingdom. He was a scholar who "burned the midnight oil" to delve deeper into his studies and finish what he held dearest, namely his *Science of Legislation*. He combined his Norman blood – he was of Norman origins – with that of the Kingdom of the Two

Sicilies, the arena of his life. Precisely this multi-dimensionality is the sign of the depth of one of the great European intellectuals of the eighteenth century.

3. The Science of Legislation

Gaetano Filangieri's *Science of Legislation* is considered as one of the most important writings of the Enlightenment. Berti (2003) has called it a true compendium of that intellectual movement's philosophy. The original plan called for seven volumes, but various contingencies resulted in its final five-book structure. The first four were published by Filangieri himself between 1780 and 1785, the fifth posthumously in 1788, thanks to his friend, the Marquis Donato Tommasi. The last two books were lost during the disorders of 1799, when Palazzo Filangieri, in the heart of the Greco-Roman part of Naples, was sacked and burned.

Upon publication, the first volumes won widespread praise but also managed to anger the high ranks of Neapolitan society: feudal lords and much of the nobility and the ecclesiastical class. Filangieri's arguments against donations reserved to the Church and his scathing polemics on the anachronistic survival of feudal law caused him no few problems, especially from 1784, when the fourth book came out and the entire work was put on the Index (Ferrone, 2003; Ruggiero, 1999). For his part, Filangieri never appeared to feel threatened or harmed by these difficulties. He wrote to a friend:

“Persecution by a few monsters calling themselves barons, rather than discourage me have instead hardened my spirit. I will show that their supposed rights are incompatible ... with civil liberty ... It is high time, by now, that this barbarous plant be ripped out from the cultured nations of Europe. ... Governments must be induced to extirpate its very roots.”⁵[Own translation].

He let his work speak for itself against the calumnies and harmful actions directed at him and persevered in the writing, publication, translation and diffusion of the work both in and beyond Italy,⁶ establishing relationships everywhere, from France to the United States of America, as is attested by his voluminous correspondence with Benjamin Franklin.⁷ Franklin's correspondence with Filangieri, at least that which survived the arson attack on Palazzo Filangieri during the disorders of 1799, testifies to the affective and political bond between the two men (D'Alessandro, 1994; Pera et al., 2011). In fact, his American friend's experience in the colony of Pennsylvania was one of the compelling motivations for Filangieri's work, encouraging him to support the liberal-democratic cause in Europe. Although he worked under the shadow of Bourbon absolutism, he did not hide his hopes of contributing to the formation of a representative, democratic government patterned on the American model in the old Continent (Ferrone, 2003). As he himself noted, “my purpose is none other than to facilitate the sovereigns of this century in the enterprise of a new

legislation” (Filangieri, 2003, p. 4). The pillars of this “new legislation” were to be two essential principles: that of “preservation” and that of “tranquility”. In his own words:

“Preservation includes existence, tranquillity includes security... It follows, therefore, that riches in a rich state should be properly distributed. If man, however, wishes not only for preservation but tranquillity, this will not be sufficient. He must have confidence... -”
(Filangieri, 2003, p. 12) [Translation by Richard Clayton, 1806].

It is precisely in this way of conceiving his two principles that Filangieri introduces his typical theme of trust, fully developed many years later by the institutional economists as the indispensable ingredient in a society interested in the gradual increase in collective happiness. Filangieri proceeds in this original approach, not only identifying the principles but also establishing their operative functions through the concepts of “absolute goodness” and “relative goodness” (Giannola, 2012). The sovereign (the legislator) must thus hew to the principles of the preservation and the tranquility of the citizenry as the “sole and universal object of legislation,” through the maintenance of a good degree of *fides publica* between sovereign, magistracy and citizenry. These objectives have to be pursued, operatively, through the enactment of laws aspiring to “absolute goodness” – understood as referring to universal laws and principles – and to “relative goodness” – referring to the diversity of nations and of the citizens subject to the law. Filangieri himself says that:

“absolute goodness of laws consists in their agreement with the universal principles of morality, common to all nations and all governments, and adapted to all climates” (Filangieri, 2003, p. 15). But he also sees the need for “relative goodness” where “The diversity of characters, genius, disposition, and inconstancy of men, communicate their influence to political bodies, just as the defects of a particular part affect the whole” (Filangieri, 2003, p. 18) [Translation by Richard Clayton, 1806].

The meticulous analysis conducted by the author, especially in the first three books, the heart of the entire work, lays bare the limitations of a legal order not conceived to serve the needs of the citizenry, by retracing the enormous problems found in practically all the realms of Europe in the eighteenth century. In the specific case of the Kingdom of Naples, the concentration of wealth, the barriers to free trade, the vexatious taxation of the people, together with the privileges of the wealthy classes, rife corruption, and the overbearing power of the feudal lords all appeared as the consequences of an institutional order ruled by obsolete codes utterly inappropriate to the needs of a modern nation (V. Zamagni, 2012). According to Filangieri, the retention and application of norms inconsistent with the effective necessities of the nation worked to the advantage only of a tiny part of the populace:

“In the present condition of Europe, the whole is confined to a few hands, and the whole should be distributed in many. ... Where wealth is restricted to a few hands, [the] private

happiness of a few members will surely not make for the happiness of the entire body, indeed, as I have said, it will be its ruin” (Filangieri, 2003, p. 56) [Translation by Richard Clayton, 1806].

Even the European custom of passing the entire family estate to the first-born son was an impediment, *de facto*, to a more just and equitable distribution of wealth.⁸ He held that the retention of the rule of primogeniture (which affected him personally, as the third-born) was the concrete demonstration that within the innermost fulcrum of society, namely the institution of the family, there could nest a fatal error. A father who sees numerous children as a burden, the junior scions who envy the first-born whose birthright deprives them of all wealth, represented the reproduction, in a nutshell, of the conduct of all of European society, in which a partial legislation favoured by governments – fathers – was in the interests only of aristocrats and ecclesiastics, the “first born” of the estates. These deleterious class customs had therefore to be urgently subverted, opening the doors to a more equitable distribution of social welfare:

“These few great men, surrounded with a crowd of miserable wretches, do not form the happiness of a nation, or constitute its riches. The common interest of the greater part of the community, and the welfare of the greatest number of families, are the true barometer of the prosperity of a state, and the sole instruments of its felicity” (Filangieri, 2003, p. 56)[Translation by Richard Clayton, 1806].

The special difficulty that he faced in formulating his work lay in his critique of a number of founding institutions of the society about which and for which he was writing. The mercantilist, strongly protectionist view of the economy,⁹ the weight of despotic laws, and above all the anachronistic interference of feudalism were problems that afflicted much of Europe, and in particular the Kingdom of Naples (Ferrone, 2003; Zamagni, 2012). True to the scientific method and concrete proof, illustrating the inherent inconsistency of these institutions, Filangieri set out acute, topical reflections that revealed a complex, multidisciplinary approach placing special emphasis on the concepts of “collective happiness” and “trust” – which we will return to later. His critique centered on feudal institutions, which to his way of thinking constituted the worst brake on the nation’s social and economic advance. In evident contradiction with the objective of national happiness, feudalism left in the hands of the barons the management and administration of lands, related goods and, above all, justice:

“A left-over from the ancient feudal government leaves still to the barons criminal jurisprudence. This prerogative, of which they are jealous in the extreme, forms the first link in a long chain of disorders that completely destroy our civil liberty” (Filangieri, 2003, p. 165) [Own translation].

The scope of the nobility's power over the social environment that they ruled was the source of numerous problems, first of all the plague of corruption, which was especially evident in the judicial sphere. The weight of baronial will and whim was such as to determine the course of entire trials:

“He – the baron – can choose the most iniquitous man and confer upon him authority, of which he may abuse at will with the greatest of ease. ... This magistrate, I say, is no more than a vile, wretched mercenary of the baron's. ... When the judge has decreed the sentence, in the case of many crimes the baron can either, with the stroke of authority, accord total impunity or bring down upon him all the rigor of the law” (Filangieri, 2003, pp. 165-166) [Own translation].

This amounted to outright abuse of power, which jurists and thinkers sought to limit. In fact, so as to attribute greater power, within the judicial system, to the law, judicial *interpretation* was denounced because it operated outside the control of the law, while these thinkers favoured instead the *demonstration* of sentences, in their search for a remedy to the excessive power of magistrates and their corruption at the hands of the barons (Ferrone, 2003). The violent reactions of the feudal world were not long in materializing; a case in point is that of the Prince of Strongoli, Don Salvatore Pignatelli, who published in 1784 the pamphlet “*Lettera apologetica al dotto signor Giuseppe Grippa circa l'opera del Cavalier Gaetano Filangieri*” (Apologetic letter to the learned Giuseppe Grippa concerning the work of the Cavalier Gaetano Filangieri) (Ruggiero, 1999). Filangieri, while frontally assailed the baronial caste, sought to explain the reasons for his opposition, suggesting possible reforms that could improve the lot of all members of society and not of single subjects alone:

Would the extinction of feudal jurisdiction perhaps be a true loss for the barons? Would the nobility, losing such prerogative, perhaps lose its luster or its dignity? ... I know many seigneurs who pray for the abolition of their jurisdiction; I know others who defend it in good faith because they have never abused of it” (Filangieri, 2003, pp. 171-172) [Own translation].

The great object of collective happiness thus entailed the abolition of the nobility of blood, to be replaced by a “nobility of merit” no longer sustained by power passed down through lineage but by the honor and justice of one's own acts, which must contribute to progress and thus be converted from an impediment to an indispensable instrument of the economic growth and social advancement of the nation. By means of the reforms proposed in *The Science*, from the free market to the introduction of a democratic legislative apparatus, from the abolition of customs tariffs to the creation of infrastructures to facilitate foreign trade, Filangieri sought to lay the foundations for the formation of a nation held together by a central power representing the individual social subjects,

with laws and measures that fostered widespread growth, sketching out a new society to be born from below, essentially liberal and democratic.

4. Filangieri, institutionalism and the Glorious Revolution

Gaetano Filangieri's *Science* enquires into the consequences of the prince's failure to pursue the goal of collective happiness. The significance of the bond between people and government, on which his discussion of the quality of European legislation at the end of the eighteenth century hinges, is all the more topical today in the context of modern institutional economics. His arguments, which were developed, needless to say, in a far removed, very different historical context, nevertheless reveal an unexpectedly modern character. Preservation and tranquility, he observes, are based on trust:

“From the government [man] must not fear the usurpation of his rights; must trust that the guardians of the laws will not by a breach of their solemn duties make use of them as instruments of his oppression; on his fellow citizens he must rely for domestic peace, for his protection under the laws, till by crimes he may have forfeited his claim to it” (Filangieri, 2003, p. 12) [Translation by Richard Clayton, 1806].

Most interestingly, Filangieri also refers expressly to the protection of private property, individual freedom of choice, the necessity of public protection of labour, so as every man could confident that

“the property, which he has acquired either by a just and legal title, without the infraction of the several rights of others, or by the labour of his hands, shall be defended by the force of public authorities” (Filangieri, 2003, pp. 12-13) [Translation by Richard Clayton, 1806].

Douglass North, Nobel prizewinner for economics in 1993, in a celebrated article co-authored with B.R. Weingast and published in the *Journal of Economic History* (1989), sets out the political and social causes of the Glorious Revolution of 1688 in England and its positive effects. Distinguished from other revolutions by the substantial absence of conflict and battle, the Glorious Revolution, with the signature of a Bill of Rights by the new king, William III of Orange, put an end to the attempt by James II of Stuart to restore absolute monarchy and so re-established, on sounder foundations, the constitutional monarchy born with the Magna Charta in 1215, which asserted the rule of common laws over the arbitrary will of the king (Duroselle, 1991).

North's article focuses on the political and economic causes that facilitated the overthrow of James II and set England on a path towards unquestioned parliamentary monarchy. He makes it clear that the reaction of English society, and especially of the Parliament, to King James's actions, which brought about the Glorious Revolution, was essential in projecting the country towards a series of

transformations that fostered the industrial revolution of the next century. In the view of North and Weingast, it was the changes to informal institutions that altered the formal institutions of eighteenth-century England and subsequently launched the economic and political processes of formation of “public trust” that unchained the forces of the first industrial revolution.

The absolutism of the Stuart monarchs, who reigned from 1603 on, had undermined the foundations of property rights, culminating in the complete loss of trust on the part of investors, who were utterly unprotected in their dealings, while confiscations and arbitrary taxation destroyed the trust of small and large property holders alike:

“The Stuarts secured most of their loans under threat; hence they are known as ‘forced loans’ Repayment was highly unpredictable and never on the terms of the original agreement. In the forced loan of 1604/5 the Crown borrowed £111,891, nominally for one year; ‘although...ultimately repaid, £20,363... was still due as late as December 1609.’ The forced loan of 1617 (just under £100,000) was not repaid until 1628. The Crown behaved similarly on loans from 1611 and 1625. As time went on, such loans came to look more and more like taxes, but because these were nominally loans the Crown did not need parliamentary assent” (North and Weingast, 1989, p. 810).

After a first revolt headed by Oliver Cromwell, which installed a republic that lasted only a few years, the return of the Stuarts rekindled the state of insecurity, leading to a general decline in commercial activity. The English Parliament, aware of the drastic effects of monarchical despotism, realized that it needed to intervene to modify the rules. Although many MPs were in agreement with the maneuvers of the Stuarts, a consensus was forged in favor of a Bill of Rights guaranteeing stronger protection of property rights and limitation of the powers of the king and the magistracy. The institutional transformation that followed had an enormous impact on the evolution of English society. The Bill of Rights proved to be extremely well couched and succeeded in its aim of strengthening public trust, in that “The Crown no longer called or disbanded Parliament at its discretion alone” (North and Weingast, 1989, p. 816).

What is more, public trust was cited explicitly in a series of principles governing the financial management of the state. The supremacy of the common law limited the arbitrary pretensions of the king, and had an almost immediate effect: the revival of investment and lending to the Crown. As people knew of the legislative limits to the monarch’s decision-making power, they no longer feared the arbitrary revocation of commitments and agreements, which had undermined the certainty of law. Within just nine years from the Glorious Revolution, the security of contracts stipulated with the English Crown brought interest rates down. The sharp increase in sovereign loans, accompanied by the decline in interest rates, offered concrete proof that the overall risk

associated with government misconduct had diminished considerably and paved the way to the enormous growth of the debt after 1689. Not even the greatly increased sovereign indebtedness following William's war with France could undermine the general trust of the English citizenry, who by then had been reassured by the existence of a declaration of limitation of powers signed by the king himself. Further, private financial transactions also revived, stimulated by the improved state of public finances. A whole series of loans were stipulated to start up new industries, facilitated by the relatively modest terms imposed by the banks. Monopolies were turned over to Parliament, which deprived the Crown of the primary instrument whereby for years it had procured riches outside all control. The law guaranteeing freedom of petition, finally, enabled the English people to take a more active part in parliamentary debates and be involved in government economic and policy decisions.

This new institutional framework, by enhancing confidence in government behavior, lifted English commerce out of stagnation and stimulated investment. Unlike their absolutist predecessors, the new economic institutions under parliamentary governance (including the Bank of England, founded in 1694, and the Bubble Act of 1720) set England on the path towards generalized growth, with benefits for the whole society. A century later, the path of growth and progress facilitated by the institutions founded after the fall of James II culminated in the industrial revolution. In a more recent work, North and Weingast, together with J.J. Wallis, review the stages of development leading from an authoritarian government (which they call "natural state") to a democratic "open access order". They specify that even following the Glorious Revolution the English form of state could not yet be called democratic – this would come only in the nineteenth century – but that it was certainly the most advanced natural state of its epoch (North, Wallis and Weingast, 2009).

It is most interesting that Filangieri was equally clear on this point, describing the English state as a *mixed* government, because it still left too much power in the hands of the king, both directly as chief of the executive and indirectly through his capacity to influence parliamentary decisions and above all the secret formulation of the laws (Filangieri, 2003). Yet if the Glorious Revolution did not install a truly democratic government, it did introduce substantial improvements that had most beneficial economic effects.

The economists Daron Acemoglu and James Robinson (2012) also recognize the fundamental importance, in the Glorious Revolution, of inclusive economic and political institutions in seventeenth-century England. Working for the growth of the entire nation, these institutions constituted the basis of the new path of national evolution.¹⁰ The establishment of principles governing the English political apparatus that we can call "constitutional" in a broad sense¹¹

resulted in a certain degree of legislative order, limiting the arbitrary power of the Crown in fiscal matters and in decision power and distributing power among members of society. Together with the commercial interests of the bourgeois members of Parliament, the incentives to public and private entrepreneurship and the subsequent development towards industrialization were more than facilitated by the consequences of the political revolution of 1688.

A comparison of this institutional analysis with Filangieri's approach to the study of European legislation in the eighteenth century shows just how modern his reflections on the close relationship between power and society are. The similarity of the theoretical paradigms of the authors discussed is found above all in the description of absolutism: the Stuart and Bourbon monarchies are two good instances of governments operating through extractive institutions, in Acemoglu and Robinson's terms. In such systems, collaboration between people and government is scant if not totally absent, owing to the lack of mutual trust. In his account of the Glorious Revolution, North brought out the profound consequences of governments' actions for economic activity. The indissoluble relation between government and society, namely the need for legitimation of the former by the approval of the latter, is perhaps the main mechanism used by Filangieri to call the Bourbon court's attention to the social problems caused by the existing legislative apparatus. In his reflections on the relationship of power to social needs in the Kingdom of the Two Sicilies, Filangieri repeatedly invokes natural law, which explicitly calls for assonance between power and people:

“It was discovered that a public force must be established superior to private force, and that this public force could only flow from the aggregate of the whole collected mass of private force ...that the public force ought to be united to public reason ... [responsible for] the establishment of the rights, and the regulation of duties ... and lastly, that by the liberty of acquiring every requisite for personal preservation and personal tranquillity, each individual might be amply recompensed for surrender of his original independence... Such appears to have been the first intention of civil society and laws” (Filangieri, 2003, p. 12)[Translation by Richard Clayton, 1806].

Bearing in mind the American colonists' revolution against the British mother country, Filangieri stressed the importance, for Europe's absolute monarchies, of winning the positive approval of society and gaining full legitimation of their actions. In order to produce concrete results, Filangieri counseled the eighteenth-century monarchs to take as an unavoidable objective the alignment of the instruments deployed in the exercise of power and the management of public affairs with national necessities, so as not to find themselves in violation of the fundamental principles that make a society progressive. He inquired into the manifestations of dissent provoked by the mismanagement

of public affairs, considering the deficiency of the institutions as an alarm bell signaling the apex of misgovernment and stating unequivocally:

“When a nation is obliged to have recourse to contributions for the preservation of its happiness, and the very means that should secure it render it miserable, the motive for contribution ceases, and the wants of the state are chimerical. The right of exaction ceases, where the reason for payment ceases” (Filangieri, 2003, p. 98) [Translation by Richard Clayton, 1806].

Arbitrary royal power, economic and commercial backwardness, excessive poverty, and the multiplicity of taxes in the Kingdom of the Two Sicilies may be compared to Douglass North’s account of England before the Glorious Revolution, which finally overthrew James II and eradicated the Stuart tyranny. Where North stresses the significance, for the credibility of the English Crown, of the Bill of Rights as guarantee for the preservation of property rights and limitation of governmental powers, in his *Science* Filangieri repeatedly calls for the creation, in the states of Europe, of a legislative body capable of checking the arbitrary decisions of the courts, feudal lords, and above all the monarchy itself:

“It should accordingly be established that in order to declare the truth of an accusation the moral certainty of the judge should be united with the legal criterion: that in order to declare it false, both the one and the other should be lacking. ... [Thus] would the judge not possess unlimited arbitrary power, neither to condemn nor to acquit. ... The law would serve as brake on the arbitrariness of judges” (Filangieri, 2003, p. 154) [Own translation].

With the events in Britain’s American colonies before his eyes, Filangieri saw that developments across the Atlantic, which had culminated there too in a Declaration of Rights, could be repeated in Europe, thanks to the manifest signs of crisis for the constituted powers. Similarly to North’s portrayal of the Stuarts, *The Science* reproaches the crowned heads of Europe of his times as proponents of an authoritarianism applied by extractive institutions, the perfect antithesis of the requests for collective happiness and equitable distribution of wealth. The news of the colonial insurrection in America further stoked the hopes of Filangieri and other European democrats for possible, imminent social and political change in the direction of liberal and democratic institutions, as the second volume of his work makes abundantly clear. The climate of transformation in which he was writing led him, in the very shadow of the throne of Ferdinand IV, to denounce the failings of the king vis-à-vis his kingdom and his people:

“To demonstrate the defects or vices of government may be a crime in a despotic state... It is an act of virtue and a public benefit in a free state... It would be an insult to my own self and to the moderation of the present sovereigns of Europe, if in treating of the obstacles... from a principle of fear or adulation, those were to be passed over in silence which may be

attributed to the different governments” (Filangieri, 2003, p. 68) [Translation by Richard Clayton, 1806].

He attacked the donation of land and other property to the Church and the practice of vassalage as causes of social immobility and poverty, a legacy of tyranny that was self-evidently incompatible with the expectations of the day and that increased the distance between sovereign and subjects. In Filangieri’s view the ease with which accusations could be lodged and the predisposition of the class of judges to corruption was enhanced was made possible by legal codes that could be bypassed and were inconsistent with the real necessities of people. He found it simply impossible to accept the excessive length of trials, the bias of judges, and the overweening power of the barons – all familiar plagues of the southern kingdom that were inadequately disciplined by the existing legal order, which was not up to combating the deleterious customs rooted in society. Given the dramatic lack of certainty of law, in his third book Filangieri emphasizes the urgent need to modify the sole instrument capable of favoring justice, namely the law, to ensure a more just and impartial judicial process:

“... to exclude those judges not only who may be manifestly suspected of partiality but also those who for even the slightest of causes should not merit one’s full trust” (Filangieri, 2003, p. 158) [Own translation].

In *The Science* Filangieri also makes an attempt to estimate the adverse effects of the protectionism practiced by the princes of Europe using objective arguments – statistics, we would say today – comparing the expectations for sales with reality, with a view to underscoring the importance of free trade and freedom in agriculture through less intrusive legislation. As regards commerce, Filangieri believes in its power to civilize (Bruni, 2006) and with respect to the obstacles that impede its progress he asserts:

“On one side, [progress] suffers from the negligence of government, which takes no pains to release it from its obstructions; and on another from its troublesome interference, in wishing to control and regulate its motives, its enterprises, and its interest” (Filangieri, 2003, p.89) [Translation by Richard Clayton, 1806].

In his treatise Filangieri combats the anti-free-trade ideology, which in the illusion of fostering national wealth only serves to enrich the nobility and the Crown, leaving the rest of the population in unchanging poverty. Unable to refer directly to the royal house in his denunciation, he nevertheless offers a scrupulous account of the adverse repercussions of the mercantilist policy sustained by its laws and subsequently recounts the beneficial consequences of the free market.

“The ports are immediately shut, guards posted on the frontiers... The expedient is a fatal one. It lowers the value of property, ruins agriculture, dejects commerce, impoverishes the

country, depopulates the state... Writers of political economy have painted in the most lively colours the fatal consequences of this unhappy prejudice, from which states have suffered so severely... [But] Restrictions, which formerly existed, are still in use. The fetters of exportation... far from being loosened, in many nations are increased.” (Filangieri, 2003, p. 68) [Translation by Richard Clayton, 1806].

A convinced believer in the civilizing function of the market, Filangieri sets forth his “civil” vision of the free market, with an account of the benefits and advantages of international trade:

“This private interest of Spain - about free commerce - is the interest of Europe. As agriculture improved... its population would increase, and as its population increased, its demand for foreign goods would also multiply. The more its commerce with America was extended its vessels would return with richer cargoes, and it would be more able to pay for the foreign articles which it wanted. France and England, and Italy would then find a greater want of their manufactures in a nation with greatest power to purchasing them, and they would both sell their own goods at a higher rate, and buy at a cheaper one the produce of America, which is now so necessary in Europe. Portugal is the next to be considered... her great object should be to encourage an universal concurrence or competition in the sale of her produce, and also in the importation of the foreign goods and merchandize which she wants.... [And] the same freedom of commerce which was supposed to create the scarcity, would restore abundance, and the ports, open both to importation and exportation, would in one instance receive, and in another forward to other nations, the commodities. The value of the products by these means would find their true level.” (Filangieri, 2003, p. 68) [Own translation].

Filangieri’s work does not refrain from drastic condemnations of English imperialism, as when he berates the English people, because “not content with becoming a rich people, has sought to be the sole one” (Filangieri, 2003, p. 87). As Giannola (2012) observes, Filangieri radically rejects the English model centered entirely on private property and in its extreme form marked by the expropriations of commercial imperialism. He prefers a system centering on the right to happiness for the whole people, a right which – not incidentally – is expressly cited in the American Declaration of Independence. This represents one of the great merits of the Neapolitan school of civil economy.

5. Filangieri’s legacy and the weaknesses of the Parthenopean Republic

Eleven years after Gaetano Filangieri’s death, Naples was the scene of a chain of events leading to the proclamation of the Parthenopean Republic. As a consequence of French revolutionary violence and bloodshed, the climate in Ferdinand IV’s Naples was radically altered. The years of timid reforms came to an abrupt end with the decapitation of Louis XVI of France and his wife Marie

Antoinette – Queen Maria Carolina’s sister. Seizures of subversive material, incarcerations and criminal convictions multiplied throughout the kingdom, rendering palpably clear the drastic shift in the royal attitude towards blind, fanatical absolutism. After the death of Louis XVI, the citizens of the Bourbon realm were suffocated by repressive policies designed to dismantle every possible threat to monarchical power, provoking general discontent.

When the course of the military conflict between France and the Italian states began to presage the imminent conquest of Naples by the French troops, in December 1798 the king and the royal family abandoned the capital and fled to Palermo. The arrival of the French army under General Championnet, supported by the city’s republicans, resulted in the proclamation of the Parthenopean Republic on 23 January 1799 (Cuoco, 1980). Apparently, everything favored the cause of the Neapolitan patriots, but actually the new democratic government was plagued by numerous and severe organizational shortcomings, lacking both the power and the political intelligence essential to an institutional transformation in keeping with the precepts of Filangieri and the other Enlightenment thinkers.

The bourgeoisie of Naples was not strong like that of England¹² and Filangieri’s work makes it easy to infer the great rigidity of Bourbon law on trade, which together with deeper structural problems (Perotta and Sunna, 2012) prevented commerce from prospering.¹³ The ranks of the supporters of the republican cause in 1799 were made up mainly of youthful aristocrats, some of them scions of the great noble houses, who until that moment had frequented the court of Ferdinand IV (Croce, 1912) and who had been among Filangieri’s dearest friends (Giannola, 2012).

The struggle that they undertook against the Bourbons was the fortuitous outcome of historical events, precipitated by the flight of the royal family, prompted by admiration for the French example and the hope of launching those reforms that formed the body of their liberal ideals, sustained among others by Filangieri’s *Science*. The French Directorate had a voice in all the decisions taken by the republican government of Naples, creating a climate of tension between the two powers that made agreement difficult and slowed the passage of all the major reforms established by the new Constitution of the Parthenopean Republic, drafted by the legislative commission, which were necessary to the very survival of the new government (Cuoco, 1980).

In any case, the true defeat of the Republic stemmed from the lack of a process of osmosis between the patriots on the one hand and the bourgeoisie and the common people on the other, the latter turning out to be little inclined to accord the “trust” described by Filangieri. Where the English Parliament succeeded in incorporating in its reforms the common needs of the nation, the democratic message of the Neapolitan patriots met steadfast opposition. The passivity of the

bourgeoisie was second only to the outright hostility of the lower classes towards democracy. The common people were diffident towards the patriotic movement for the entire period of the French occupation. Despite a series of attempts to awaken popular interest in the cause of democracy, the foreign source of the political upheavals and the birthplace of patriotism in the aristocratic salons made it impossible to get the Neapolitan republican movement in harmony with the real needs of the lower classes, so all offers of class collaboration proved untenable (Cuoco, 1980). Feeling betrayed by their fellow citizens, the people demonstrated their hostility to the new government and openly displayed their faith in Ferdinand and Maria Carolina, the recognized symbols of their roots and religion (Croce, 1912). This atmosphere, together with the shortage of food caused by the royalist embargo and the growing discontent provoked by the vexations of French customs duties (worse even than those suffered under the monarchy) could not but trigger insurrection and revolt, which broke out immediately upon the French retreat from Bourbon territory. When the French troops departed, leaving Naples and the provinces to the feeble local republican forces, the true extent of the weakness of the patriots and the Republic became glaringly evident. The patriots had been unable to deal constructively with internal problems without the support of the invaders, while the Republic, with no army, was defenseless in the face of the imminent Bourbon counteroffensive (Cuoco, 1980).

On 21 June the republicans impotently watched the re-entry into Naples of the Bourbon army under the command of Fabrizio Dionigi Ruffo (1744-1827). They agreed to surrender in exchange for their lives. Shortly after their return, however, the monarchs dishonored the pacts signed by Ruffo and initiated a series of trials and executions of all those who, actively or not, had taken part in the democratic interlude. In view of the large number of prisoners given over to the executioners, Ferdinand IV and Maria Carolina of Austria have been counted among the cruelest tyrants in the history of Naples. This, then, was the dramatic conclusion to a historical period in which reform of the institutions impeding the progress of the *Mezzogiorno* had seemed possible. The Neapolitan Enlightenment, which had nothing to envy the Milanese school in terms of intellectual excellence or international impact (V. Zamagni, 2017), was brutally extirpated, leaving the promise of civil, economic and political progress unfulfilled. This is the spirit in which Vera Zamagni (2017) condemns the Bourbon dynasty, which proved incapable of seeing the need to enact reforms and support them with the nation's best human resources – especially after 1799, when in the North of Italy, unlike Naples, the local intellectual elite, despite the changed political scene, managed to hold important public positions. The Bourbons regained control over their domains, holding on to power for another 62 years without ever sustaining any policy capable of fostering the welfare of the nation.

The proclamation of the Republic can be seen as preamble to the launch of a new government founded upon more inclusive institutions and favorable to the free market, as in the Glorious Revolution. But the lack of political and social affinity with the people, along with the fact that the lower classes were long accustomed to absolutist domination and with foreign interference in Neapolitan affairs, doomed the hopes of the republicans. The precepts of “Liberté, égalité, fraternité” that inspired liberals everywhere in the various monarchies of Europe proved incapable of overcoming the peculiarities of many nations, engendering political regimes like that of Naples, born under French dominance, often short-lived and with sometimes devastating side-effects.

6. Conclusions

The work of Gaetano Filangieri looked to ideals that implied greater political power for the people, the abolition of feudalism, an end to mercantilism, the expansion of both internal and external trade, a judicial method to make punishments more proportionate to crimes, and fairer taxation. The reforms he advocated were designed to serve the real needs of the nation, i.e. general prosperity – in Filangieri’s own words, “public happiness.”

Filangieri’s thought and the contemporary school of institutional economics resemble one another in their emphasis on the factors that favor or discourage a government in gaining public trust, i.e. the correspondence of policy action to popular needs. Whether the subject is seventeenth-century England or the working of the Bourbon monarchy, the conclusions of institutional economics are analogous to Filangieri’s well-argued theses: the strength of a government lies in institutional solutions that foster lasting trust between citizens and government and promote economic freedom under the rule of law.

In short, we can say that in addition to having produced an acute, critical but constructive analysis of the society of his day, in harmony with Enlightenment thought, Gaetano Filangieri was the precursor, two centuries back, of the principles of indissoluble interaction between formal and informal institutions and economic development, between governance and social feedback, that are pillars of today’s school of institutional economics. This amplifies the message of his life’s work, *The Science of Legislation*, which spoke in the eighteenth century for the thirst for liberty of men subject to the extractive authoritarianism of absolute monarchy, from Naples to Paris, from England to America, and played some role in the historic transformations of the epoch. This message maintains its full contemporary relevance, in fact, confirming Filangieri’s ambitious pretension to be among those philosophers who are “contemporaries of every age” with “posterity as their disciples.”

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ⁱ See for instance the “Law and Economics” approach developed by F. Simon (2011).

ⁱ Bernardo Tanucci, a Tuscan, professor of law at Pisa and comrade to Pompeo Neri, was councilor and prime minister to Charles of Bourbon and then (when the latter was crowned King of Spain in 1759) to his son Ferdinand IV, until 1776. He conducted a number of reform policies, not all well designed. His timid reformism was continued by others, with a more philo-Austrian slant, until the period of French domination.

ⁱ For a comprehensive review of work on the “public happiness”, see the entry “felicità pubblica” in “Il Contributo italiano alla storia del Pensiero – Economia” (2012), by S. Zamagni, in *Enciclopedia Italiana*.

ⁱ Even though Pecora (2008) notes that Filangieri excluded the poorest classes from some fundamental rights (the right to vote and the liberty to litigate), which narrows the quintessentially modern and democratic scope of his thought, denying its claim to being that “manifesto of modern democracy” that other historians have found it to be.

ⁱ Letter from Filangieri to Domenico Pepe, cited in Ruggiero (1999), introduction.

ⁱ Underscoring the work’s impact on contemporaries, Berti (2003) reports that between 1784 and 1840 *The Science* went through at least six editions in Germany, five in France, five in Spain, two in England, and one each in Poland, Russia, Holland, Sweden and Denmark.

ⁱ A convinced liberal, Franklin played an active role in the 1750s as mediator between the mother country and the colonies and subsequently supported all the actions required for the latter’s liberation from English domination. In 1776 he took part in drafting the Declaration of Independence and in 1785 was named governor of the state of Pennsylvania. Some scholars (Giannola, 2012; Berti, 2003) say we cannot rule out the possibility that Filangieri’s thought influenced Franklin and, through him, the Declaration itself.

ⁱ On this, see the interesting work of Kuran (2011), who contrasts, from the institutionalist standpoint, the Judeo-Christian religions with Islam as they bear on inheritance and the conduct of enterprise as at least a partial explanation of the economic crisis and decline of the Islamic countries as against the sustained rapid growth of the West.

ⁱ It has been made abundantly clear that mercantilism played a fundamental role in facilitating the industrial revolution in England, as P. Vries (2015) has demonstrated. It is true, further, that no country achieved industrial takeoff in the nineteenth century without some form of protectionism (see V. Zamagni, 2015). In fact, the mercantilism against which the economists of the eighteenth century railed, Filangieri among them, was the universal system of customs duties that impeded and paralyzed above all internal, domestic commerce. There nevertheless remains the inconsistency

between preaching and practice: all the mercantilist measures were not abrogated in Britain, the fatherland of free-trade liberals, until the 1840s, when the industrial revolution practically terminated.

ⁱ Distinguishing between inclusive and extractive institutions, Acemoglu and Robinson seek to determine the reasons for different types of growth in different countries. Where institutions are inclusive, society is spurred to participate in the nation's economic growth because it is facilitated and protected by policies that are aligned with their own interests and that guarantee freedom of choice. Given this kind of governance, the population is protected by impartial laws, thanks to which the discretionary action of those in office is circumscribed and administered in accordance with the practices of social life. Under the English monarchy prior to the Glorious Revolution, as under the Bourbons in Filangieri's time, the institutions were more of an extractive nature, a term the authors use for the act of expropriation, i.e. transferring wealth, power and freedom of decision to the monarch alone (Acemoglu and Robinson, 2012).

ⁱ Britain does not have a Constitution as such but a set of laws and procedures that guarantee citizens' rights and establish the prerogatives and limitations of public power.

ⁱ The Glorious Revolution was ultimately the triumph of the bourgeois class, although not in exactly the terms we would use today to define it. The chiefly bourgeois Whig faction in Parliament, with its commercial interests, was powerfully motivated to combat the aristocratic wing, which acted in accord with the absolutism of James II and used all of its political capability to that end. In this way the Whigs gained the support of the entire commercial class of the nation, which saw that its interests were better represented by Parliament than by the Crown. Popular awareness of the abuse of property rights and the uncertainty of the populace as regards the retention of their wealth were factors in the flight and then the overthrow of James II and the consequent incorporation of William of Orange. Malanima (2006) finds that in 1695-1699 the middle class constituted 12.3 percent of the English labor force, whereas in 1814 (decades after Filangieri's *Science*) it was still no more than 6 percent of the active population of the Kingdom of Naples.

ⁱ Perrotta and Sunna (2012) offer a historical discussion of the backwardness of the Italian *Mezzogiorno*.