

From the Restoration to the Pisanelli Code (1815-1865): A Cultural and Historical
Assessment of the Legal Status of Women in the North of the Italian Peninsula

Sara Delmedico

Clare College

March 2018

This dissertation is submitted for the degree of Doctor of Philosophy

**From the Restoration to the Pisanelli Code
(1815-1865): A Cultural and Historical
Assessment of the Legal Status of Women in
the North of the Italian Peninsula**

Abstract

From the Restoration to the Pisanelli Code (1815-1865): A Cultural and Historical Assessment of the Legal Status of Women in the North of the Italian Peninsula

Sara Delmedico

In the context of a changing political landscape, where shifts in state boundaries and socio-economic structures deeply affected the Italian peninsula and its people, this thesis analyses women and the law in action in the years from the Restoration up to the enactment of the Pisanelli code (1815-1865). It does so with particular reference to the Kingdom of Sardinia and the Kingdom of Lombardy-Venetia. These years also saw a number of changes in the legal system with various new laws instituted. The quick succession of these legal acts testified to the new ideas, behaviours and perceptions that began to take form in the period in question, but which the patriarchal and hierarchical nineteenth century society – so reliant on strict class stratification to perpetuate its *status quo* - resisted fully accepting.

Within this context, women began to redefine their sense of self and to think of themselves as having an identity which went beyond their traditional domestic roles of mother, wife or daughter. This work aims to describe this process by focusing on women's attitudes towards the law and their interactions with the legal system.

The thesis is structured in the following way: the first part focuses on the Ottocento context, the ideals promulgated about women in public discourse and the legal framework of the Italian peninsula. In the second part attention turns to relevant case studies from the Kingdom of Sardinia and the Kingdom of Lombardy-Venetia, brought to light by first-hand examination of archival documents and court proceedings preserved in legal journals of the time. Each part is subdivided into three chapters. After an examination of the social, political and economic context of the nineteenth-century Italian peninsula (Chapter one), the discussion presents a picture of contemporary views about women according to scientists, theorists, moralists and jurists (Chapter two). Chapter three is devoted to the law in force in the pre-unification states with regard to women, paying close attention to the institution of dowry. Chapter four deals with a selection of case studies concerning marriage promises, seduction, and extramarital relations. What emerges from the investigation is the intrusiveness of authorities and the reach they extended into people's private lives in an effort to maintain social order and exercise power within a society founded on hierarchy, immobility, and obedience. Chapter five examines lawsuits questioning dowries and wills. These acts show the families' choices to preserve their wealth, often inevitably paving the way to future discord, with women initiating lawsuits to obtain more money from their relatives. Finally, Chapter six analyses widowhood and separation, two possible moments in a woman's existence that had important implications in terms of both their intimate sphere and the devolution of wealth. In particular, the chapter traces widows' actual access to inheritance, and women's requests for separation, focusing on the reasons that drove them before a court to relate issues pertaining to their very intimate lives, such as contracting diseases.

Through the analysis of the law in action and women's use of the law itself, this thesis will recover the forgotten voices and lives of those ordinary women, who, in their everyday life, reacted against the limitations and constraints imposed upon them by society and decided not to passively accept their status.

From the Restoration to the Pisanelli Code (1815-1865): A Cultural and Historical Assessment of the Legal Status of Women in the North of the Italian Peninsula

Index of contents

Acknowledgements	IV
Preface	V
Introduction	1
1. Recovering women's voices	2
2. State of the art	5
3. Sources and methodology	13
4. Structure	18
Part 1	
The Italian Peninsula in the Pre-Unification Period	
Chapter 1: Building the nation-state: Italian society between old prerogatives and modernity	22
1. The political and economic context	22
2. Family and society	25
3. Women and the family	29
4. Women and political participation: the Risorgimento	37
Chapter 2: Ideals of women in men's and women's writings	44
1. The ideology on women	44
2. 'L'irrequieto desio di piacere agli uomini': women, their world and their education	51
3. Women and motherhood	55
4. Jurists on women's status	65
5. Acknowledging women's participation	69

Chapter 3: Women and the law in the nineteenth century Italian peninsula	73
1. The dowry from ancient times to the nineteenth century	74
2. The French Revolution: the Jacobin Constitutions and the Napoleonic Code	85
3. Women and the law during the Restoration	88
4. Women and civil rights before Unification	101
5. The Unification of Italy	104
Part 2	
Women and Marriage between Civil, Criminal and Canon Law: The Cases of the Kingdom of Sardinia and Lombardy-Venetia	
Chapter 4: Women and men beyond marriage	109
1. The promise to marry	109
2. Seduction of a ‘zitella onesta’	115
3. Extramarital relations	127
Chapter 5: Women, marriage and the transmission of property	134
1. ‘Recapitata onestamente’: women’s exclusion from inheritance in the Kingdom of Sardinia	134
2. The Roncallis: a wealthy family in Piedmont	138
3. Negotiating their exclusion: the Marchisone sisters	150
4. Women and wills in Lombardy-Venetia: overriding the law	155
Chapter 6: Ending wedlock	161
1. Wealth, poverty and widowhood	161
2. Annulment and consensual separation	168
3. Non-consensual separation: adultery and <i>saevitiae</i>	172
3.1 Adultery	172
3.2 <i>Saevitiae</i>	177
Conclusion	186

Table 1. Nineteenth-century coinage	190
Glossary	191
Bibliography	193
Primary sources	193
Secondary sources	209

Acknowledgements

I wish to express my sincere gratitude to the Arts and Humanities Research Council and Cambridge Commonwealth, European and International Trust for generously supporting my PhD studies. I would like to thank the Italian Department at the University of Cambridge for creating such a supportive and enriching environment in which to work.

For her illuminating, meticulous, enthusiastic and invaluable guidance and feedbacks, I am deeply indebted to my doctoral supervisor Helena Sanson.

I am also grateful to Victor Crescenzi, Federica Boldrini and Giovanni Minnucci for sharing their expertise and providing me with helpful comments.

My warmest thanks go to my family and friends for their love and support.

Preface

This dissertation is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the Preface and specified in the text. This dissertation is not substantially the same as any that I have submitted, or, is being concurrently submitted for a degree or diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text. I further state that no substantial part of my dissertation has already been submitted, or, is being concurrently submitted for any such degree, diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text. This dissertation does not exceed 80,000 words.

Introduction

Padre. Io ho fatto, come forse avrete inteso, una donazione generale ai miei figli e vostri fratelli all'oggetto di conservare in famiglia l'integrità del mio patrimonio; ma nel far questo ho pensato anche a voi, avendo fissato, oltre la dote già stabilita e pagatavi da alcuni anni, di assegnarvi altri mille scudi di Milano. Vorrei però che ne parlaste anche a vostro marito, e che vi disponeste a farmi un'ampia e generale liberazione.

Figlia. Sarà assai difficile, che mio marito si determini a questo; e se ho da dirvi il vero, non ne sono nemmeno io persuasa, perché il Codice presente mi ritiene eguale ai fratelli, e tutto al più vi è permesso esser liberale con essi di una quarta parte del vostro patrimonio.

(La donna legale ossia i diritti di natura richiamati dal Codice napoleone. Dialogo
(Brescia: Bettoni, 1806), pp. 3-4)

The protagonists of this short passage from *La donna legale ossia i diritti di natura richiamati dal Codice napoleone. Dialogo*, published anonymously in 1806, are a father and his daughter. The latter conveys an image of women that contradicts most eighteenth- and nineteenth-century commonplaces: she knows the law, does not consider men superior to women, and does not accept different treatment from her brothers. She responds to her father with a certain degree of deference, but she does not stand in the awe of him, and asks for her rights to be recognised. The father, by contrast, perfectly matches the patriarchal stereotype: he is the head of the family, and wants to preserve his patrimony 'in famiglia' by excluding his daughter from his inheritance. He informs her of his decision, considers himself to be magnanimous with the dowry he assigned her, and urges her to talk to her husband, the head of her new household. There is something even more striking in the father's words: he does not consider his daughter as part of the *famiglia*. Through marriage, she would give birth to children bearing the name of another *famiglia*, and should not be entitled to share the wealth of her family of origin.

This fictional dialogue is a telling example of the existing social dynamics across the Italian peninsula under French rule. The disrupting novelties introduced by the Napoleonic code (1804), which allowed all children to equally inherit regardless of their sex, encouraged some women to redefine their self-consciousness and subjectivity.

Then, with the Congress of Vienna (1814-1815) and the Restoration, as most Italian

states reverted to legal provisions in force before the French conquests, women – with the exception of those living in the Kingdom of Lombardy-Venetia – were again debarred from having the same rights as men. With the Unification of Italy and the enactment of the 1865 civil code, daughters obtained the same inheritance rights as sons, but the new kingdom once again codified gender inequality and continued to abide by a legal system that subordinated women to men.

1. Recovering women's voices

The aim of this study is to assess the legal status of women in the Kingdoms of Sardinia and Lombardy-Venetia, during the period from the Restoration (1815) to the Unification of Italy (1861) and the enactment of the first civil code, known as Pisanelli code (1865).

Tracing women's legal status requires consideration of various aspects of life and society, including the demographic, economic, political, cultural and social dimensions. The analysis of this wider context is complemented by the examination of contemporary treatises, in which the ideal models of women were described. These texts were written by both women and men: they aimed to help women correctly assess their status, and also allowed men to understand how to handle family life and men's and women's roles. They depicted women as weak-headed, poorly educated, depending on a male adult, and fulfilling their role within the household. Women in the house, within the family, in the private sphere, were deemed in the place nature had destined them to, and where they belonged. However, if the private sphere was not women's exclusive domain, men, with their supposed greater firmness of mind, were entitled to monopolise civil life and spaces outside the home. In the words of Ruth Kelso, the public sphere implied 'mingling freely with a multitude of persons in a public place, as is necessary in public relations', and was unsuitable to women's decorum and chastity.¹ The construction of the identities of both women and men was framed by the dichotomy between the private and the public sphere, and by the opposition between obedience, a woman's virtue, and command, a prerogative of men.²

¹ R. Kelso, *Doctrine for the Lady of the Renaissance* (Urbana: University of Illinois Press, 1956), p. 14.

² On this point, see K. Mitchell and H. Sanson, 'Introduction', in K. Mitchell and H. Sanson, eds, *Women and Gender in Post-Unification Italy: Between Private and Public Spheres* (Oxford: Lang, 2013), pp. 1-9 (in particular, pp. 2-3). See also P. Willson, 'Introduction: Gender and the Private Sphere in Liberal and Fascist

As Joan Kelly-Gadol highlighted, the concepts of private and public have changed over time, and continue to change, depending on the culture considered;³ accordingly, the line that divides the two spheres shifts as well. In the case of nineteenth-century Italian society, women often began to trespass the boundary of their private, secluded worlds, that is, their households; their presence in the public sphere became much more intense than ever, and, during the upheavals of the Risorgimento, they strongly contributed to the cause in contexts such as the barricades or the salons. The two spheres often interacted and overlapped, blurring the boundary between the private and the public. Changes in the political set-up of the Italian peninsula also entailed mutations in the legal frameworks, affecting people and women in particular, and questioning the centuries-long notion of femininity. However, as we shall see, the great majority of people were not yet ready to accept an inclusive redefinition of women's status in the law, or to comply with any challenges to the patriarchal and hierarchical Italian society, to the extent that, in the period in question, women even experienced a 'fairly regular pattern of relative loss of status'.⁴

In nineteenth-century Italy, women were still 'divided into three acceptable states of being': unmarried, married and widowed women.⁵ For centuries, this subdivision was reflected in conduct literature for and about women. It is only in the second half of the nineteenth century that conduct literature began considering women beyond these states, such as spinsters and separated women, new 'categories' that were frowned upon and often

Italy', in P. Willson, ed., *Gender, Family and Sexuality: The Private Sphere in Italy, 1860-1945* (Basingstoke: Palgrave Macmillan, 2004), pp. 1-19 (in particular, pp. 1-4). On the dichotomy private-public sphere, see also S.M. Okin, *Women in Western Political Thought* (Princeton: Princeton University Press, 1992); L.E. Klein, 'Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure', *Eighteenth-Century Studies*, 29/1, The Public and the Nation (Fall, 1995), 97-109; J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press, 1996); J. Rendall, 'Women and the Public Sphere', *Gender and History*, 11/3 (1999), 475-88.

³ J. Kelly, *Women, History and Theory: The Essays of Joan Kelly* (Chicago; London: University of Chicago Press, 1984), pp. 10-11.

⁴ J. Kelly-Gadol, 'The Social Relation of the Sexes: Methodological Implications of Women's History', *Signs* 1/4 (Summer, 1976), 809-23 (p. 810). I use the term 'status' in the meaning defined by Kelly-Gadol, that is, the power to act and the position held within family and society.

⁵ L. Hosker, "Donne sole" in *Post-Unification Italy: The Works of Tommasina Guidi and Emilia Nevers* (unpublished PhD dissertation, University of Cambridge, 2015), pp. 15-18.

seen with suspicion, but reflected changes taking place in society at the time.⁶ The conduct of these women, too, needed to be normalised and codified, even more so because of their potential disruptiveness. Conduct literature became ‘a more diversified phenomenon [...] more reflective of social reality, and covering a wider range of ‘roles’ for women’.⁷

Nevertheless, the ideal woman remained the one who played her role within the boundaries of marriage, ‘the institution at the heart of the social system’,⁸ and whose life had significance mainly with regard to the three related phases of life: the time before, during and after marriage. Marriage, in the words of Trevor Dean and Kate Lowe, ‘was understood to be a different act for women and men’.⁹ However, it had a considerable importance for both, being the path to aspire to, even if this implied giving up individual ambitions and expectations.

A close investigation into everyday reality, beyond the conceptualisation and idealisation of the female sex, questions this long-standing stereotyped notion of women, and uncovers a different scenario. If moralists and educationalists insisted on female obedience and submissiveness, this was perhaps also because in every day life women showed resistance. Some women did not passively accept their status, and even disregarded the existing order and the defined rules of society: the ideals promoted by the Enlightenment and the French Revolution had planted their seeds.

But if some decades ago women’s historians such as Gerda Lerner already made clear that ‘it is no longer sufficient to view women mainly as members of families’,¹⁰ before the law, men and women were still perceived predominantly as part of a family, and structured their subjectivities within its boundaries. The understanding of the changes taking place during the Ottocento should primarily focus, on the one hand, on the legal importance

⁶ Ibid.

⁷ H. Sanson, ‘Introduction. Women and Conduct in the Italian Tradition, 1470-1900: An Overview’, in H. Sanson and F. Luciola, eds, *Conduct Literature for and about Women in Italy, 1470-1900: Prescribing and Describing Life* (Paris: Classiques Garnier, 2016), pp. 9-40 (p. 33).

⁸ O.H. Hufton, *The Prospect before Her: A History of Women in Western Europe* (London: HarperCollins, 1995), p. 59.

⁹ T. Dean and K.J.P. Lowe, ‘Introduction: Issues in the History of Marriage’, in T. Dean and K.J.P. Lowe, eds, *Marriage in Italy, 1300-1650* (Cambridge: Cambridge University Press, 1998), pp. 1-21 (p. 2).

¹⁰ On this point, see G. Lerner, ‘Placing Women in History: A 1975 Perspective’, in B.A. Carroll, ed., *Liberating Women’s History: Theoretical and Critical Essays* (Urbana: University of Illinois, 1976), pp. 358-67 (p. 360).

of the family, a moral body and a sort of ‘microstate’ within the state, with its own customs, interiorised and accepted by its members; on the other, on the impact of the transition towards a society in which the individual became the new centre. It is against this background that this study analyses the relations between men and women, between subjects and authorities, and the ways the law and the judicial system deployed their forces in this context.

Over the centuries, the law underwent several transformations in response to emerging needs, but the broader framework remained substantially unchanged, with ancient sources still having force of law and affecting everyday lives. As we shall see in the following chapters, the age-old notion of women would continue to impact on commonplaces and mindsets for long after the Unification of Italy. The contents of the Pisanelli code thus reflected a male-dominated elaboration of the law in an equally male-dominated society.

Through the analysis of the law in action, this study assesses the extent to which judicial outcomes adhered to the written law, that is, the law preserved and transmitted ‘in the books’. In other words, it examines how, in this period of crucial changes, the reality of being a woman interacted with the ideals that had been elaborated over the centuries, and how the theorised notions of womanhood influenced everyday life in concrete and practical ways. The case studies examined in this work concern ordinary people and investigate the experiences of women belonging to different social classes, from both rural and urban contexts: through their actions, these women challenged prejudices, stereotypes and the set-up of the world to which they belonged.

2. State of the art

For its position between social, legal and gender history, this study has a new and interdisciplinary identity. To structure this identity, the works of Paolo Ungari and Manlio Bellomo provided a first general, conceptual and contextual grounding on family law and women’s legal status. In particular, in his *La condizione giuridica della donna in Italia* (1970), Bellomo addresses women’s legal status from ancient to modern times,¹¹ describing

¹¹ M. Bellomo, *La condizione giuridica della donna in Italia. Vicende antiche e moderne* (Rome: Il Cigno,

its evolution through time and making clearly emerge the crucial link between family, wealth and society. Bellomo's analysis of the widespread commonplace that pictures women as 'l'immagine riflessa dell'uomo' helps to explain the issues concerning the transmission of wealth at that time.¹² In this context, the law itself appeared as a means aimed to ensure the continuity of the family name and its wealth, which was key to its status. Alongside the focus on law and legal changes, Bellomo's work does not neglect to analyse the shifts towards a new understanding of family and women's role as part of it that began from the eighteenth century onwards. This helps to identify the many peculiarities of the legal system, the roots of which dated back to a very ancient past and relied on a number of different, and often overlapping, provisions of the *ius commune* and *iura propria*.¹³

Paolo Ungari's 1974 study of family law, *Storia del diritto di famiglia in Italia (1796-1942)*, examines the law in force, the writings of the jurists of the time, as well as the social and political changes that took place.¹⁴ It provides a clear and reliable description of the intricate development of the legal framework concerning family in the last two centuries. The stress on the importance of the family as formative of law and legal customs helps to understand to which extent changes such as those promoted by the Enlightenment had on its structure.

The works by Bellomo and Ungari were both written in the 1970s – at a time when Italy was going through critical changes, which also involved women –, and, were the first attempts to provide a systematic study of women status and the legal framework of the last centuries. They shed light on the way families were structured and perceived, paying attention to the shift from the idea of family as a group sharing identity and power to a more intimate idea of a moral body in which emotions were its prominent component. This process has also been the subject of a themed volume, *Famiglia e mutamento sociale* (1977),

1996 [1970]).

¹² Ibid., p. 25.

¹³ The *ius commune*, or *utrumque ius*, is the bulk of laws formed by Roman and canon law, shared and used across the Italian peninsula. An overview on the body of legal rules issued by the Catholic Church can be found in J. Gaudemet, *Le Droit canonique* (Paris: Fides, 1989). See also J. Gaudemet, *La Formation du droit canonique médiéval* (London: Variorum, 1980); J. Gaudemet, *Storia del diritto canonico: ecclesia et civitas* (Cinisello Balsamo: San Paolo, 1998). *Iura propria* refers to the law enacted by states and used in their territories only.

¹⁴ P. Ungari, *Storia del diritto di famiglia in Italia (1796-1942)* (Bologna: Il Mulino, 1974).

edited by Marzio Barbagli,¹⁵ who, in his subsequent monograph *Sotto lo stesso tetto* (1984),¹⁶ clearly detects and studies this new attitude within society by adopting a socio-demographic approach. His studies reveal a more ‘informal’ behaviour between family members, which had a deep effect on centuries-old hierarchical structure and questioned authority within the family. Luciano Guerci examines women’s perspective and assesses these new attitudes against the works published at that time, in particular treatises on female conduct, education and morality.¹⁷ He identifies a ‘crisi dell’obbedienza’,¹⁸ that pushed people to redefine their own roles and sense of self, and at the same time to challenge obedience, which was no more perceived as unquestionable. Therefore, paternal authority examined in *La paura dei padri nella società antica e medievale* (1983) edited by Ezio Pellizer, Nevio Zorzetti and Alberto Maffi,¹⁹ and sometimes described as a sort of ‘metus reverentialis’ (reverential fear), informed power relations within kinship groups for centuries, but, as observed by Marco Cavina, started to become more fluid from the eighteenth century onwards.²⁰

In the last twenty years, historiography on law and wealth has become more substantial. In his *Famiglia, successioni e patrimonio familiare nell’Italia medievale e moderna* (1994), Andrea Romano focuses on the importance of inheritance laws to preserve family, wealth and therefore status in society.²¹ The gender dimension, which is not widely investigated by Romano, is, instead, the core of Giulia Calvi’s and Isabella Chabot’s edited volume *Le ricchezze delle donne* (1998). This work moves in a new direction by explaining the key role of women in the social and familial context:²² they were excluded from

¹⁵ M. Barbagli, ed., *Famiglia e mutamento sociale* (Bologna: Il Mulino, 1977).

¹⁶ M. Barbagli, *Sotto lo stesso tetto. Mutamenti della famiglia in Italia dal XV al XX secolo* (Bologna: Il Mulino, 1984).

¹⁷ L. Guerci, *La discussione sulla donna nell’Italia del Settecento: aspetti e problemi* (Turin: Tirrenia Stampatori, 1987); L. Guerci, *La sposa obbediente: donna e matrimonio nella discussione dell’Italia del Settecento* (Turin: Tirrenia Stampatori, 1988).

¹⁸ Guerci, *La sposa obbediente*, p.11.

¹⁹ E. Pellizer, N. Zorzetti, and A. Maffi, eds, *La paura dei padri nella società antica e medievale* (Rome: Laterza, 1983).

²⁰ M. Cavina, *Il padre spodestato: l’autorità paterna dall’antichità a oggi* (Rome: Laterza, 2007).

²¹ A. Romano, *Famiglia, successioni e patrimonio familiare nell’Italia medievale e moderna* (Turin: Giappichelli, 1994).

²² G. Calvi and I. Chabot, eds, *Le ricchezze delle donne: diritti patrimoniali e poteri familiari in Italia* (Turin:

obtaining large part of their family's wealth, but, at the same time, women were bearers of their family's honour and also seen as a means by which the power of their families of origin was deployed in society.

The legal dimension on which these works drew was further examined in the studies of scholars such as Trevor Dean and Kate Lowe, Daniela Lombardi and Thomas Kuehn, who emphasised the role played by the law in action based their analysis on a solid archival investigation into primary sources. Society's key institution – marriage – is the focus of Trevor Dean's and Kate Lowe's edited work on *Marriage in Italy* (1998).²³ Since 'marriage is important because it heralded change',²⁴ it is also identified as a starting point from which an investigation into views on gender and on female and male roles could be carried out. The authors clearly stress the variety of reasons for which marriage were made: what results is that, even though strategy was extremely important, individuals' needs were not always disregarded. Alongside economic and social reasons, love was also allowed some room in the marriage market. This point, often deemed controversial, is discussed in *Storia del matrimonio dal Medioevo a oggi* (2008) by Daniela Lombardi,²⁵ who also provides an in-depth analysis of rituals and customs of marriage along social classes. By looking at both court records and the law, Lombardi shed light on how marriage has evolved in time.

The perspective of the law in action is particularly fulfilled by Thomas Kuehn's studies on Renaissance Italy by examining legal archival sources through the lens of gender.²⁶ Kuehn drew attention to the 'familial context, where gender stereotypes were lived and disregarded at times, where women were deeply engaged in roles seen as theirs and not, supposedly, threatening existing order, but rather embodying it'.²⁷ The author accounts family law as not static, but rather formative of domestic life. Nonetheless, it generated conflicts, to which women took part and were able to circumvent and exploit legal limitation

Rosenberg and Sellier, 1998).

²³ Dean and Lowe, eds, *Marriage in Italy*.

²⁴ Dean and Lowe, 'Introduction: Issues in the History of Marriage', p. 1.

²⁵ D. Lombardi, *Storia del matrimonio dal Medioevo a oggi* (Bologna: Il Mulino, 2008). See also D. Lombardi, *Matrimoni di antico regime* (Bologna: Il Mulino, 2001).

²⁶ T. Kuehn, *Law, Family and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991); T. Kuehn, *Family and Gender in Renaissance Italy, 1300-1600* (Cambridge: Cambridge University Press, 2017).

²⁷ Kuehn, *Family and Gender in Renaissance Italy*, p. 20.

to their advantage.

The pivotal role played by marriage means that the analysis of women's legal status should inevitably start by considering their three times of a woman's life – before, during and after marriage. Several studies have undertaken a close analysis of the extent by which moral and religious limitations influenced behaviours. The works of James Brundage and Jean Delumeau clearly define the sense of sin, which entangled with sexuality and pervaded Western societies from the Middle Ages onwards. In this regard, Delumeau identifies the sense of sin – and its related fear of punishment – not only as means to dominate people but also as deeply afflicting the elites as well. By focusing on the Italian peninsula, Gabriella Bonacchi, Oscar Di Simplicio, Margherita Pelaja and Lucetta Scaraffia also provide an interesting picture of the Church, its sense of morality, and ecclesiastical authorities' behaviour often seen as a sort of anxiety to ensure 'moral order'.²⁸ But the Church did not have only a moral influence on people and society: it had jurisdiction on marriage and this meant that secular authorities had to establish a close relation with the Church itself. Therefore, as Jean Gaudemet explains, canon law informed many aspects of life.²⁹

In such a context, people's behaviours were subjected to rigorous assessment and were all to converge in what was understood to be the correct way of living. To a woman, in particular, the time before marriage was key to her future and she had to behave in an honourable way in order to avoid any stain challenging a possible, future marriage. But transgressions were part of life and could lead to pregnancy or even infanticide:³⁰ as Giovanni Cazzetta has shown in his *Praesumitur seducta* (1999), seduction and the birth of illegitimate offspring were major concerns for society, and this led, from the Enlightenment onwards, to a new understanding of women, who went from being considered victims to being stigmatised as accomplices.³¹ But if 'many found their sexuality beyond the boundaries of

²⁸ O. Di Simplicio, *Peccato penitenza perdono. Siena 1575-1800. La formazione della coscienza nell'Italia moderna* (Milan: Franco Angeli, 1994); G. Bonacchi, *Legge e peccato. Anime, corpi, giustizia alla corte dei papi* (Rome and Bari: Laterza, 1995); M. Pelaja and L. Scaraffia, *Due in una carne: chiesa e sessualità nella storia* (Rome: Laterza, 2008).

²⁹ J. Gaudemet, *Le Mariage en Occident: les mœurs et le droit* (Paris: Cerf, 1987); Gaudemet, *Storia del diritto canonico*.

³⁰ A. Prosperi, *Dare l'anima. Storia di un infanticidio* (Turin: Einaudi, 2005); A. Prosperi, *Infanticide, Secular Justice, and Religious Debate in Early Modern Europe* (Turnhout: Brepols, 2016).

³¹ G. Cazzetta, *Praesumitur seducta: onestà e consenso femminile nella cultura giuridica moderna* (Milan: Giuffrè, 1999).

accepted behavior’,³² as Guido Ruggiero in his *The Boundaries of Eros* (1989) suggests, Maurice Daumas, in his *Adulteri e cornuti* (2008), demonstrates that adultery was the objective evidence of the double standard by which women and men were judged.³³ Again, this was a powerful reminder that women’s behaviour had to be different from that of men, and their subjectivities were to deploy within the safe walls of their households. Being part of a family in order to avoid being marginalised was therefore key: worries and concerns single women carried with them are clearly explained by Maura Palazzi,³⁴ and this was also the reason why families tried to do their best to make widows to marry again, as Giulia Calvi and Isabelle Chabot show in their articles on second marriages.³⁵

Alongside the socially accepted behaviour, individuals had their own sense of self which often clashed against that of others: in their edited series *I processi matrimoniali degli archivi ecclesiastici italiani*,³⁶ Silvana Seidel Menchi and Diego Quaglioni explain the many reasons to initiate a dispute, thus showing that both women and men were far from abiding by societal rules. These works use a number of legal sources – law, jurisprudence and judicial sources – and address marriages, their rituals and the possible subsequent conflicts.

Although studies mentioned above mainly focus on the period before the Napoleonic conquests, their contribution is pivotal to understand the several dynamics that led to the nineteenth-century context and then to the elaboration of the new legal framework of Italy.

³² G. Ruggiero, *The Boundaries of Eros: Sex Crime and Sexuality in Renaissance Venice* (Oxford: Oxford University Press, 1989), p. 15.

³³ M. Daumas, *Adulteri e cornuti: storia della sessualità maschile tra Medioevo e modernità* (Bari: Dedalo, 2008), p. 70.

³⁴ M. Palazzi, *Donne sole: storie dell’altra faccia dell’Italia tra antico regime e società contemporanea* (Milan: Bruno Mondadori, 1997).

³⁵ G. Calvi, ‘Reconstructing the Family: Widowhood and Remarriage in Tuscany in the Early Modern Period’, in Dean and Lowe, eds, *Marriage in Italy*, pp. 275-96; I. Chabot, ‘Seconde nozze e identità materna nella Firenze del tardo medioevo’, in S. Seidel Menchi, A. Jacobson Schutte and T. Kuehn, eds, *Tempi e spazi di vita femminile tra medioevo ed età moderna* (Bologna: Il Mulino, 1999), pp. 493-523

³⁶ S. Seidel Menchi and D. Quaglioni, eds, *Coniugi nemici: la separazione in Italia dal XII al XVIII secolo* (Bologna: il Mulino, 2000); S. Seidel Menchi and D. Quaglioni, eds, *Matrimoni in dubbio: unioni controverse e nozze clandestine in Italia dal XIV al XVIII secolo* (Bologna: Il Mulino, 2001); S. Seidel Menchi and D. Quaglioni, eds, *Trasgressioni: seduzione, concubinato, adulterio, bigamia (XIV-XVIII Secolo)* (Bologna: Il Mulino, 2004); S. Seidel Menchi and D. Quaglioni, eds, *I tribunali del matrimonio (secoli XV-XVIII)* (Bologna: Il Mulino, 2006).

Yet, the crucial period between the Restoration and the Unification of Italy has not received the scholarly attention it deserves, and has often been overlooked.

This work is a first attempt to fill this gap. The chronological boundaries of this study comprise the years between the Restoration and the Unification of Italy. This periodisation categorises these decades of the Ottocento into a sort of interregnum between the Old Regime – the past, the old, the backward – and the birth of the Italian nation – the new, a point of arrival, something to aspire to. If the Council of Trent (1545-1563) marked a turning point for the institution of marriage, with regard to other legal matters, ancient sources such as Justinian's *Corpus Iuris Civilis* were still considered and used. The French conquests introduced several changes which represented a clash between the past and the present, and between various strata of society that struggled to hold their prerogatives, and others, which welcomed the winds of modernity blowing over the peninsula. The Restoration let these contradictions emerge: alongside monarchs such as the kings of Sardinia who firmly tried to return to the past, others – such as the rulers of Lombardy-Venetia – attempted to introduce novelties (for example, the Austrian civil code), thus acknowledging these changes. At the end of this interregnum, there is the birth of Italy and shortly after the enactment of the Pisanelli Code (1865), a crucial step in the path towards the building of the nation, in which, however, women's contribution was disregarded by reconfirming their subordinate status.

Analysing this interregnum implies considering changes and continuities between the present and the past: since ancient times, institutions and legal norms had undergone very few mutations and 'criminal and civil law [...] reflected continuity in a view of woman as essentially a dependant of man'.³⁷ But a first-hand examination of the law in action showed challenges in the centuries-long notion and ideology about women: in real life, some women used the law, and knew how it functioned in practice; they questioned authority and negotiated their status, showing an image that was quite different from that promoted in texts of conducts, among others.

The geographical limits of this work comprise the Kingdoms of Sardinia and Lombardy-Venetia. The choice of these two states was determined by the fact that they present an interesting array of both similarities and differences, which make them particularly suitable for a fruitful comparison.

³⁷ Hufton, *The Prospect before Her*, p. 505.

With regards to similarities, in these two states, as in all other states across the peninsula, the age-old notion of women heavily conditioned every aspect of life. Objects of a culturally determined vision of femininity, women within family and society were mainly valued as childbearing vessels. In an economic context mostly relying on agriculture, the patriarchal and hierarchical idea of the family deeply affected interpersonal dynamics. The structure of Italian society consisted of several types of families (the bourgeois family or the workers' family, for example), which conflicted and interacted with each other. Although social mobility was almost inconceivable – and, as we shall see, often even forbidden – people from different social classes shared similar behaviours, irrespective of their wealth. Even though elaborating a consistent model would be questionable, a provisional hypothesis can be attempted: despite being different in their standing, lower and upper classes shared a common sense of honour, respectability and dignity, which was to be enforced and transmitted to the following generations. This common feature also reflected in their behaviour towards the transmission of wealth: no matter if the patrimony to bequeath was land or a piece of furniture, families were concerned to ensure that their goods were going to the 'right' person. As we shall see, across all social classes, men were considered the 'right' person because they would continue the family's name, and were therefore entrusted with the task of controlling and administering the family's patrimony. Women contributed with their dowries and/or with other intangible goods, such as morality, obedience, or their ability to work if they belonged to lower classes.

The static society of both kingdoms was also characterised by the pervasive presence of the Catholic Church, which was entrenched in many aspects of everyday life, and still influenced societies and people's behaviours throughout the Ottocento and beyond. The Church's sense of morality and religiosity was profoundly interiorised by people and deeply impacted on their mentalities. But its force was not only moral: its jurisdiction over non-patrimonial matters related to marriage, and the power of its courts, trespassed the boundaries of the actual Papal States. Canon law strongly intertwined with Roman law and other local sources, affecting not only judicial outcomes but the very essence of the legal framework itself.

Alongside these common traits, there was also a major difference between the Kingdoms of Sardinia and Lombardy-Venetia: in the former, the law gave a prominent position to men by allowing them to exclude women from inheritance, thus amassing economic power in men's hands; in the latter, women could inherit in the same way as men.

Women's status in the two states also differed to the extent that, in the Kingdom of Sardinia, any legal act by women had to be authorised by a male relative, while in Lombardy-Venetia they could freely administer their goods. In both states, however, the patriarchal male-dominated society continued to affect interpersonal rules of behaviour and pattern of thoughts: indeed, people tried to override the law through private acts, which, in practice, resulted in women enjoying lesser status than men in Lombardy-Venetia, too.

Despite the different status of men and women being widely accepted, there was still room for discord and disputes. Many lawsuits challenged not only a patrimonial set-up but also ideas and commonplaces, and had sometimes unexpected outcomes. If, in theory, 'the social function of the law is first to lay down rules aimed at the avoidance of disputes [...] and second to set out a normative framework to solve disputes which do arise',³⁸ in real life the distinction was not so pristine. In the nineteenth century, the concomitant presence of several sources of law and the extensive recourse to private acts, such as wills or acts of renunciation to inherit, resulted in a number of diverging interpretations of the two levels of the law, that is, 'law in the books' and legal outcomes. In the Kingdom of Sardinia, the presence of the *ius commune* as well as that of municipal statutes and other *iura propria*, such as the eighteenth-century *Regie Costituzioni*, made the legal framework not entirely coherent. Moreover, the enactment of Napoleon's Code, and its subsequent repeal, sharply increased legal disputes, especially those concerning inheritance, and saw women exploiting the interstices of the law to improve their economic condition. In the Kingdom of Lombardy-Venetia, by contrast, the Austrian civil and criminal codes were introduced in the first decades of the nineteenth century (in 1811 and 1803, respectively). Although they did not allow the recourse to any other legal source, their provisions, too, were often overridden through private acts such as testaments. As we shall see, in both kingdoms, the law was often distorted to women's detriment.

3. Sources and methodology

The core of this study relies on first-hand investigation of archival documents and primary

³⁸ D. Ibbetson, 'Comparative Legal History: A Methodology', in A. Musson and C. Stebbings, eds, *Making Legal History: Approaches and Methodologies* (Cambridge: Cambridge University Press, 2012), pp. 131-45 (p. 135).

sources. First, the analysis took into account the legal framework in order to understand the pluralistic nature of the law in force in the Kingdoms of Sardinia and Lombardy-Venetia, and the way it affected women. These sources include municipal statutes, the *ius commune*, and other acts, such as the *Costituzioni* enacted in the eighteenth century, as well as nineteenth-century codes.

Second, the analysis of the legal framework was complemented by the examination of a corpus of archival material held in state archives of Turin, Milan, Verona and Venice as well as in Church archives, such as the Archbishop's Curia of Turin and Milan, and the Bishop's Curia of Verona. These four cities were chosen for their importance, especially because they were the seat of higher courts such as the Senato of Turin or the Supremo Tribunale of Verona. Crucially, these archives also preserved documents from smaller, surrounding urban centres and rural villages. Hence, they provided an important body of material to compare and assess the social, economic and legal dynamics into play in the rural and urban contexts of the two kingdoms.

As Silvana Seidel Menchi has pointed out, sources such as judicial proceedings are very useful as they can offer different keys to interpret society and people.³⁹ Besides showing how courts carried out their judgements, these sources also allow to infer how the law was manipulated by the people involved in a lawsuit, and how their words were recorded.⁴⁰ Indeed, Charles Donahue argues that '[t]he way in which the witness tells his or her story is more likely to be a product of the witness or of the clerk who recorded the testimony', therefore causing considerable distortions in the process of redacting legal records.⁴¹ But detecting the way the law was leveraged to comply with people's wills is extremely useful as it testifies to their lives, experiences, expectations and ambitions, offering much more than a cold description of legal acts. However, in order to limit the extent of these distortions, a significant bulk of archival material has been examined to identify recurrent features, which would allow to consider a case as a representative case study.⁴² Through this approach, among the many disputes examined in archival documents

³⁹ S. Seidel Menchi, 'I processi matrimoniali come fonte storica', in Seidel Menchi and Quagliani, eds, *Coniugi nemici*, pp. 15-94 (pp. 49-57).

⁴⁰ Ibid.

⁴¹ C. Donahue, *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007), p. 7.

⁴² For case studies as a research method, see R.K. Yin, *Case Study Research: Design and Methods* (Thousand

and legal journals, I carry out an in-depth analysis of those cases, which I accounted as the most representative of nineteenth-century legal dynamics.

The initial research involved the analysis of a wide number of notarial documents such as wills and dowry instruments: from the inventories held in each archive, I have been able to locate notaries, who were active in the historical period that was the object of my analysis and whose acts were significant to my study. Each notary rogated for about 20 years, their papers being preserved in folders containing roughly 200 acts each. Among these acts, there were dowry instruments and wills, as well as deeds of sale. Acts such as wills were made both by men and women in equal numbers. The chosen notaries were the followings:

- 1) in Turin, notaries Giovanni Aiassa, Giovanni Pietro Ellena and Giovanni Antonio Partiti, who were active in Turin and in the areas of Pinerolo and Villafranca between 1768 and 1849;
- 2) in Milan, notaries Giuseppe Alberti and Giulio Caimi, active in Milan and surrounding areas in the mid-nineteenth century;
- 3) in Verona, notaries Lorenzo Maggi and Giuseppe Mercè, respectively from Verona and Cero in the early decades of the nineteenth century;
- 4) in Venice, notaries Antonio Santibusca and Luigi Sperotti, active in the years from 1801 to 1868.

From this initial corpus of documents, I identified and selected approximately 300 wills and dowry instruments. Their examination aimed to assess how these documents were drawn up, by whom and why. Particular attention was given to women's role in this process, and to the interactions between the different family members, and especially among male figures, who intervened in signing the wills and dowry instruments of their relatives.

In the above-mentioned archives, I also considered court transcripts: they came from courts of first instance, courts of appeal, supreme courts and ecclesiastical tribunals. Among others, I have analysed records from the Tribunale di Pinerolo, the Corte di Appello di Casale, the Corte di Cassazione di Torino, the Tribunale Civile di Prima Istanza di Venezia, the Tribunale di Appello Generale (Venice) and the Supremo Tribunale di Verona.

The analysis of court transcripts showed how people approached the law, the main

Oaks: Sage, 1994). See also L. Webley, 'Stumbling Blocks in Empirical Legal Research: Case Study Research', *Law and Method* (October, 2016), 1-21.

motives to begin a lawsuit and who they involved. Despite being initiated by members of the same family, lawsuits did not always imply a profound fracture within the kinship group. As Renata Ago argued, resorting to a court could often be interpreted as a way to remedy a defective situation, and not necessarily as a sign of strong discord.⁴³ It thus highlights the way people perceived their world and their everyday relations.

The court transcripts in question concerned roughly 300 lawsuits. The choice to include in this study only a selection of the documents collected has been driven not only by practical reasons, but also by the desire to focus on the peculiarity of the cases, on their protagonists and on how they managed to manipulate the law to their own ends. In particular, the aim was to offer a picture of nineteenth-century ordinary people, from different socio-economic backgrounds, in front of the law.

A third type of primary sources that were examined are legal journals. The nineteenth century offers the first examples of journals of jurisprudence published across the Italian peninsula. This is an extremely significant source, which has been not yet attracted the scholarly attention it deserves, especially considering that these legal journals are a rich source of information as they were meant to guide judges, lawyers and jurists in approaching and understanding the *ratio* behind the decisions made by courts, and to help them handle similar cases. They dealt with civil, criminal and commercial law, and the selection of lawsuits and debates that were included in their pages mirrored the questions to which authorities paid special attention and which they considered worthy of an in-depth discussion.

With an intended readership of legal experts, these journals were edited by renowned jurists such as the lawyers Giovanni Francesco Zini, who edited *Giurisprudenza pratica secondo la legislazione austriaca*, a legal journal of the Kingdom of Lombardy-Venetia published from 1817 up to 1845, and Cristoforo Mantelli, editor of *Giurisprudenza del codice civile e delle altre leggi dei regii stati*, one of the two journals of the Kingdom of Sardinia, which was published from 1839 to 1847. The other was *Annali di giurisprudenza*: it was published in Turin from 1838 to 1845 and was compiled by a group of prominent legal experts, among whom Urbano Rattazzi. These journals were usually published yearly, even though *Giornale di giurisprudenza pratica* (1846-1862), for example, was fortnightly

⁴³ R. Ago, *Economia barocca: mercato e istituzioni nella Roma del Seicento* (Rome: Donzelli, 1998), pp. xi-xii.

(but its issues are now collected in yearly volumes).

Cases concerning seduction, extramarital relations, adultery and separation are few: for instance, in the twelve volumes of *Giurisprudenza degli Stati Sardi* (previously called *Giurisprudenza del codice civile e delle altre leggi dei regj stati*) published between 1848 and 1859, there are only twenty cases of separation, one case of adultery, two cases of seduction and one case dealing with extramarital relations. Similar data can be inferred with regards to *Giurisprudenza teorico-pratica secondo la legislazione austriaca*.

Instead, lawsuits dealing with dowry and other inheritance issues are more numerous: the same volumes of *Giurisprudenza degli Stati Sardi* reported 156 disputes concerning dowry and 92 cases regarding wills. Again, data are similar for Lombardy-Venetia legal journals.

Legal journals also enable to infer how uncertainties and incongruities of the law were confronted and elaborated by courts to produce consistent outcomes. The way cases are described in these journals is very significant too. With regard to cases concerning adultery, for example, particular attention was paid to the protection of the protagonists' honour by not mentioning their names, and by limiting the information given in order to prevent the exposure of their identity.

The case studies examined concerned litigations that underwent several stages and give a clear insight into the law in action. These are valuable because they reconstruct the social, moral and cultural issues behind the claims, convey authorities' position regarding the matters analysed and show how commonplaces and stereotypes influenced judicial outcomes.

Legal acts and judicial proceedings alone, however, do not allow us to fully understand a society; therefore, the works of scientists, moralists, theorists and jurists, who contributed to shape ideas about women, have also been considered. These works addressed both men and women, and often asserted that their goal was to make women correctly assess their position in society and the role they had to stick to. The study of this kind of writings helps to better comprehend the way the law in action moved, altered the outcomes of judicial proceedings and entered people's minds.

The multiple sources of investigation used in this study helped to infer the very essence of the law in action with all its inherent 'perceptions of processes and how they influence behaviour [so] to understand how laws are understood, and how and why they are

applied and misapplied, subverted, complied with or rejected'.⁴⁴

This study trespasses the boundary of legal history and analyses not only the courts and their behaviours, but the people: it does not intend to offer a cold analysis of legal proceedings, but rather shed light on the real life of men and women, with their bias, expectations and ambitions, before the law, and on how law and society interacted and intertwined to constitute a mutual and binary extension of each another. Reducing the scale of the analysis to the individual and her/his family within the real-life context allows to identify some of the patterns of behaviours and thoughts that shaped and defined the mentality of the Ottocento. In this way the relation between law and society emerges and gives a better sense of the different factes of such changing society.

4. Structure

By studying this material and taking into account all these issues, this work, which is not intended to be an exhaustive study, aims to propose an alternative interpretation of nineteenth-century image of womanhood. The picture which emerges shows women questioning obedience and challenging authority: they did not hesitate to go before a court to ask for their rights to be enforced, and initiated lawsuits for several reasons. For example, they asked for an addition to their dowries, or wanted the dissolution of their marriage because they claimed that their husbands had passed a disease on them. Although they were formally in a subordinate position, some women envisioned themselves as worthy members of the society, fully entitled to ask for justice.

This work is divided into two parts, each composed of three chapters. The first part describes the Ottocento context, the ideals promulgated about women in public discourse and the legal framework of the Italian peninsula; the second part consists of case studies. In Chapter one, the social, political and economic context of the nineteenth-century Italian peninsula is examined. This approach allows for a stronger focus on the Italian society and on the meaning of the family in this context, and, within this framework, women's role and contribution to both the family and society. Chapter two provides a picture of ideas about women. To this end, the discussion explores contemporary views about women by

⁴⁴ Webley, 'Stumbling Blocks', pp. 2-3.

scientists, theorists, moralists and jurists. Chapter three is dedicated to the law in force in the pre-unification states with regard to women, which also includes an analysis of the roots of institutions such as the dowry.

The second part of my work presents and discusses a selection of case studies that cast light on the relations between men and women before and outside wedlock, during marriage and at the time of its dissolution. In particular, Chapter four deals with a selection of case studies concerning marriage promises, seduction, and extramarital relations. As we shall see, both ecclesiastical and civil authorities aimed at circumscribing relations, especially sexual intercourse, within the boundaries of wedlock, thus ensuring their desired social 'order' as a way to convey their powers and prerogatives within the very depth of society. If people's intimate life was a major concern to authorities, the transmission of wealth was an equally important matter: Chapter five is concerned with the study of dowries and wills, two crucial instruments that put the continuity of a family's patrimony at stake. Several lawsuits were initiated by women, and their analysis showed in practice the efforts families made to preserve their patrimony *in famiglia*. Finally, Chapter six analyses widowhood and separation, two possible moments in a woman's existence that had important implications in terms of both their intimate sphere and the transmission of wealth. In particular, the chapter traces widows' actual access to inheritance, and women's requests for separation, focusing on the reasons that drove them before a court to relate issues pertaining to their very intimate lives. Courts aimed to ensure both social order and meet people's needs, however, the outcomes of these cases were sometimes unexpected and frustrating.

Through the analysis of the law in action and women's use of the law itself, this study aims to offer a contribution towards the recovery of the forgotten voices and experiences of those ordinary women, who, in their everyday life, reacted against the constraints imposed upon them by society and decided not to passively accept their status. Theirs were small, but nonetheless powerful acts of resistance against and disruption of the *status quo*.

Note to the reader

Eighteenth- and nineteenth-century primary sources have been transcribed adopting conservative criteria and following as closely as possible the original. Some changes have been made, however, for ease of reading. They are as follows:

- (a) *u* and *v* have been distinguished according to modern usage;
- (b) ampersands have been expanded to *et*;
- (c) other abbreviations have also been expanded;
- (d) accents follow modern usage;
- (e) some minor changes have been introduced in terms of punctuation and the use of apostrophes to aid comprehension;
- (f) uppercases are left as in the original text.

Any apparent incongruities in spelling and morphology that have been preserved are part of the original text. The original spelling of titles in the body of the text and the bibliography has been preserved as far as possible. Translations are my own, unless otherwise indicated.

Throughout this study, names of tribunals have been left in Italian. The Italian words for currencies (e.g. *scudi*, *lire*) have been preserved as well. I deliberately avoided any comparison with the present-day value of money and goods, because the economy, the physical means of production and the perception of the value of an asset in the period under consideration were too different from the present to give a consistent equivalence. A table of nineteenth-century coinage and a glossary are included at the end of this study. Words marked with an asterisk (*) are included in the glossary.

Part 1

The Italian Peninsula in the Pre-Unification Period

Chapter 1

Building the nation-state: Italian society between old prerogatives and modernity

In the late nineteenth century, the Italian peninsula was fragmented into a number of different states. Regardless of their size, these were all economically backwards and mainly agrarian territories, with industrialisation having developed only in some areas, located mostly in the north of the peninsula. The male-dominated structure of family and society reflected this backwardness, and would inform social dynamics for a long time to come. In this context, women had strictly defined roles within the household, even if, as we shall see, their involvement in the Risorgimento process brought them outside their homes. Although this led to a redefinition of women's self-consciousness, their active participation did not challenge their place in society and their subordinate status with respect to men.

This chapter analyses the political, economic and social context of the Italian peninsula within which women's legal status will be assessed. The new settlement established by the Congress of Vienna (1814-1815) left several issues unsolved, and eventually gave way to the upheavals that led to the Unification of Italy. After analysing the Ottocento context, the attention is focused on the family unit and on society, pointing out the efforts of monarchs and families to keep society unchanged, for example, by endorsing same-class marriages. In the last section, I also discuss women's contribution to the Risorgimento, both as a means to participate in the fight against the oppressors, and as a way to carve out a corner enabling them to claim a voice in society.

1. The political and economic context

After Napoleon's defeat and his exile to Saint Helena (1815), monarchs and diplomats gathered at the Congress of Vienna to elaborate a new political configuration aimed to ensure long-lasting peace through the balance of powers and the criterion of legitimacy. However, the latter was neglected in favour of the former, as in the case of the Republics of Genoa and Venice, which had been incorporated into the Kingdoms of Sardinia and

Lombardy-Venetia, respectively.¹ The Austrian Empire became the hegemonic power in the Italian peninsula at large: it ruled over Lombardy-Venetia, which was formally a single kingdom but in personal union with the Empire, and exerted its influence over other states through kinship links. While the Duchy of Parma and Piacenza and the Duchy of Lucca were given to Maria Luigia of Habsburg-Lorraine and to Maria Luisa of Bourbon, respectively, the overthrown kings were reinstated in all other territories formerly occupied by Napoleon.² If, on the one hand, the new order of the Italian peninsula left an intense sentiment of dissatisfaction among the people, on the other, it helped to build a shared sense of identity and, consequently, find the common enemy to turn against during the Risorgimento. The assumption that Italy did in fact exist as a political entity was leveraged by an interiorised and longstanding tradition, which, as suggested by Francesco Bruni, converged in the ‘coscienza di un orizzonte unico, che ha molte vite virtuali e nessuna istituzionale [...] la cui esistenza è garantita dal fatto stesso che tutti la danno per scontata’.³ The construction of the imagined Italian community found its meaning in the rhetoric of the oppression, in which the proud Italian identity fought against the oppressors, identified with the Austrian Empire, the Pope or other monarchs, who hindered Italy from becoming a nation, united and under the rule of the Piedmontese king.⁴

¹ A.M. Banti, *Il Risorgimento italiano* (Rome: Laterza, 2004), pp. 38-41. On the pre-revolutionary set-up, see M. Soresina, *L'età della Restaurazione, 1815-1860: gli Stati italiani dal Congresso di Vienna al crollo* (Milan: Mimesis, 2015), pp. 11-13.

² For a detailed analysis of borders and states after the Congress of Vienna, see Soresina, *L'età della Restaurazione*, pp. 15-19.

³ F. Bruni, *Italia: vita e avventure di un'idea* (Bologna: Il Mulino, 2010), pp. 490-91. See also, pp. 69-103.

⁴ On the construction of the Italian identity, see also R. Martucci, *L'invenzione dell'Italia unita: 1855-1864* (Milan: Sansoni, 1999); A.M. Banti, *La nazione del risorgimento: parentela, santità e onore alle origini dell'Italia unita* (Turin: Einaudi, 2000); A.M. Banti and R. Bizzocchi, eds, *Immagini della nazione nell'Italia del Risorgimento* (Rome: Carocci, 2002); Banti, *Il Risorgimento italiano*, in particular, pp. 53-73; S. Patriarca, *Italianità: la costruzione del carattere nazionale* (Rome: Laterza, 2010); S. Patriarca, ‘Italiani/Italiane’, in A.M. Banti, A. Chiavistelli, L. Mannori, M. Meriggi, eds, *Atlante culturale del Risorgimento: lessico del linguaggio politico dal Settecento all'unità* (Rome: Laterza, 2011), pp. 199-213, in particular, pp. 200-01; D. Balestracci, *Medioevo e Risorgimento: l'invenzione dell'identità italiana nell'Ottocento* (Bologna: Il Mulino, 2015), in particular, pp. 7-10. On the sense of nation and imagined community, see B.R. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).

In the age of the Restoration, the Italian peninsula – like much of Southern Europe – was still a largely agrarian territory.⁵ For a long time the main characteristic of demographic and socio-economic evolution remained that of a fast-growing population in the countryside.⁶

In his 1854 study, the economist and politician Stefano Jacini, author of several works analysing the economic fabric of the peninsula, estimated that investments in agriculture were six times higher than those in commerce and industry taken together.⁷ From the Restoration onwards, in almost the entire peninsula, landowners, politicians, economists and agronomists aimed at, and firmly believed in, modernising agriculture and enhancing it as an economic driver. In the nineteenth century, sericulture acquired importance, and, amid the debates on how to improve it, there was a great demand for more advanced techniques in every sector of agriculture.⁸ Education of farmers and a prompt response to the demands of the market were the key themes with which various investigations and professional journals were concerned. From the 1840s onwards, prices of agricultural products began to rise in international markets, leading to the idea that, even though commerce and industry

⁵ Several nineteenth-century surveys highlighted this point. See, for example, G. Devincenzi, 'Relazione sull'agricoltura dell'Alto e del Basso Milanese', *Annali universali di statistica*, 81 (1844), 329-38; S. Jacini, *La proprietà fondiaria e le popolazioni agricole in Lombardia* (Milan: Borroni and Scotti, 1854), pp. 52-71. On Lombardy see K.R. Greenfield, *Economia e liberalismo nel Risorgimento: il movimento nazionale in Lombardia dal 1814 al 1848* (Bari: Laterza, 1964), pp. 11-12. With regard to the Po Valley see also A.M. Banti, *Terra e denaro: una borghesia padana dell'Ottocento* (Venice: Marsilio, 1989), pp. 21-34.

⁶ During the nineteenth century, the population growth was affected by several factors such as bad harvests and epidemics, hence, recording a lower increase than the European average. See A. Belletini, *La popolazione italiana dall'inizio dell'era volgare ai giorni nostri. Valutazioni e tendenze*, in R. Romano and C. Vivanti, eds, *Storia d'Italia*, 6 vols (Turin: Einaudi, 1973), V, *I documenti*, pp. 489-532 (p. 517); G. Pescosolido, 'L'economia e la vita materiale', in G. Sabbatucci and V. Vidotto, eds, *Storia d'Italia, 1. Le premesse dell'unità*, 3 vols (Rome and Bari: Laterza, 1994), I, pp. 3-118; Soresina, *L'età della Restaurazione*, pp. 168-70. See also, G. Delille, *Agricoltura e demografia nel Regno di Napoli nei secoli XVIII e XIX* (Naples: Guida, 1977), in particular pp. 12-38; L. Del Panta, *Evoluzione demografica e popolamento nell'Italia dell'Ottocento: 1796-1914* (Bologna: CLUEB, 1984).

⁷ Jacini, *La proprietà fondiaria e le popolazioni agricole in Lombardia*, p. 139; Greenfield, *Economia e liberalismo*, p. 79. On agriculture in the Italian peninsula, see also C. Cattaneo, *D'alcune istituzioni agrarie dell'alta Italia applicabili a sollievo dell'Irlanda* (Milan: Bernardoni di Giovanni, 1847).

⁸ Greenfield, *Economia e liberalismo*, pp. 64-70. See also L. Serristori, 'Dell'attuale condizione dell'industria in Italia', *Annali universali di statistica*, 85 (1845), 9-19 (pp. 11-16).

(metallurgical and textile) should be taken into account, the economy of the Italian northern areas could also grow without focusing on industrialisation.⁹

In the Italian peninsula, industrialisation began developing in the 1830s, and was characterised by strong regional disproportion between the North and the South in particular, with infrastructures having a very low impact on the territory.¹⁰

2. Family and society

The strong economic backwardness of the Italian peninsula reflected in social and cultural dynamics,¹¹ but its fabric, poised between the past and the future, began to testify to a slow change particularly affecting family structure. Since the end of the eighteenth century, the image of large patriarchal families gathered around a householder had begun to fade and give way to different 'kinds' of families, such as the bourgeois family, the workers' family, and the various peasants' families.¹² Several factors contributed to these changes, resulting in a reduction of their size: this could be explained by the transition towards modern *companionate* marriages, which were 'small parental families characterized by love

⁹ Pescosolido, 'L'economia e la vita materiale', pp. 64-65. See also Greenfield, *Economia e liberalismo*, pp. 79-190; G. Luzzatto, *Per una storia economica d'Italia: progressi e lacune* (Bari: Laterza, 1957), pp. 83-84; M. Petruszewicz, 'Agronomia: innovatori agrari nelle periferie europee dell'Ottocento', in P. Bevilacqua, ed., *Storia dell'agricoltura italiana in età contemporanea*, 3 vols (Venice: Marsilio, 1992), III, pp. 295-344.

¹⁰ V. Zamagni, *Industrializzazione e squilibri regionali in Italia: bilancio dell'età giolittiana* (Bologna: Il Mulino, 1978), pp. 197 and 200. See also L. Cafagna, *The Industrial Revolution in Italy, 1830-1914* (London: Collins, 1971), pp. 48-49.

¹¹ Several studies of the time focused on this point. See, for example, E. Pani Rossi, *La Basilicata libri tre. Studi politici, amministrativi e di economia pubblica* (Verona: Civelli, 1868); G. Finali, *Le Marche: ricordanze* (Ancona: Morelli, 1896); A. Niceforo, *L'Italia barbara contemporanea: studi e appunti* (Milan: Sandron, 1898).

¹² See P. Laslett, 'Family and Household as Work Group and Kin Group: Areas of Traditional Europe Compared', in R. Wall, J. Robin and P. Laslett, eds, *Family Forms in Historic Europe* (Cambridge: Cambridge University Press, 1983), pp. 513-64; P. Melograni and L. Scaraffia, eds, *La famiglia italiana dall'Ottocento a oggi* (Rome and Bari: Laterza, 1988); M. Barbagli and D.I. Kertzer, eds, *Storia della famiglia italiana, 1750-1950* (Bologna: Il Mulino, 1992); G. Vecchio, *Profilo storico della famiglia: la famiglia italiana tra Ottocento e Novecento* (Cinisello Balsamo: San Paolo, 1999), pp. 5-8.

between spouses, as well as between parents and children'.¹³ Edward Shorter believes that this transition was also due to a new sense of personal autonomy of women, who actively decided to reduce the numerical size of their families.¹⁴ In particular, statistics on Milanese and Florentine upper classes show a change of attitude towards celibacy and spinsterhood. In Dante Zanetti's demographic survey on the Milanese aristocracy, for example, the percentage of unmarried men and women in the period 1600-1647 was 49% and 75% respectively, while in 1850-1899 the percentage went down to 11.5% and 25%.¹⁵ The increase in the number of marriages did not, however, lead to an analogous increase in the number of children per couple, thus witnessing a voluntary control of births.¹⁶ Although statistics and data samples are not sufficiently large and reliable, demographers explained that the decline of fertility was due to a combination of factors, including the reduction in the size of land plots which led to a sort of 'proletarianisation' of the rural areas. This meant that the number of farm workers increased, and, consequently, the size of their families became smaller.¹⁷

In the Italian peninsula, many large towns already existed before industrialisation set in: urbanisation was not a 'sinonimo di deruralizzazione della popolazione'.¹⁸ Nevertheless, the industrialisation process played an important role in altering the social

¹³ J. Goody, 'Dowry and the Rights of Women to Property', in C. M. Hann, ed., *Property Relations: Renewing the Anthropological Tradition* (Cambridge: Cambridge University Press, 1998), pp. 201-13 (p. 209). See also E. Badinter, *L'Amour en plus: histoire de l'amour maternel (XVIIe-XXe siècle)* (Paris: Flammarion, 1981).

¹⁴ On companionate marriages, see E. Shorter, 'Emancipazione femminile, controllo delle nascite e fecondità nella storia europea', in Barbagli, ed., *Famiglia e mutamento sociale*, pp. 317-59 (pp. 344-46); K. Fisher, 'Marriage and Companionate Ideals since 1750', in S. Toulalan and K. Fisher, eds, *The Routledge History of Sex and the Body: 1500 to the Present* (Abingdon, Oxon; New York: Routledge, 2013), pp. 328-48 (p. 329). Breastfeeding also impacted in the reduction of family size. On this point, see M. Livi-Bacci, *A History of Italian Fertility during the Last Two Centuries* (Princeton: Princeton University Press, 1977), pp. pp. 35-48 and 285-86.

¹⁵ D. Zanetti, *La demografia del patriziato milanese nei secoli XVII, XVIII, XIX* (Pavia: Università di Pavia, 1972), p. 84.

¹⁶ *Ibid.*, pp. 144-45. Similar decline was recorded among Florentine patricians. See, R.B. Litchfield, 'Caratteristiche demografiche delle famiglie patrizie fiorentine dal sedicesimo al diciannovesimo secolo', in C.A. Corsini, ed., *Saggi di demografia storica* (Florence: Università di Firenze, 1969), pp. 17-34 (p. 25).

¹⁷ See Barbagli, *Sotto lo stesso tetto*, pp. 45-138.

¹⁸ A. De Bernardi, 'Città e campagna nella storia contemporanea', in R. Romano, ed., *Storia dell'economia italiana. L'età contemporanea: un paese nuovo* (Turin: Einaudi, 1991), III, pp. 252-78 (p. 253).

fabric of the Italian peninsula, leading simultaneously to the rise of the bourgeoisie as a new class of entrepreneurs, and the decline of the nobility.¹⁹ This combination of factors administered the *coup de grace* to a world that had been exposed to erosion for several decades, and in which the large patriarchal family struggled to resist. As the Milanese jurist Giovanni Carcano observed:

un notevole cambiamento parmi verificato nel corso di non molti anni nelle abitudini della nostra famiglia [...]. A memoria d'uomini ancor freschi fu tempo in cui era comune tipo fra noi la famiglia patriarcale [...] nella quale i figli maritavano presso i padri, menando loro donne nella casa dei padri [...]. Ora lo sperperarsi e il dividersi [...] è il costume dell'epoca nostra.²⁰

The same concerns regarding the disintegration of the large patriarchal family were expressed in an interesting portrait of nineteenth-century Lombard society drawn up by the Milanese writer Carlo Ravizza (1811-1848).²¹ His novel *Un curato di campagna: schizzi morali* featured a country priest trying to persuade families to remain together:

le grandi famiglie tendevano più che mai a scomporsi [...] o per l'insubordinazione di un figliuolo, o per l'inerzia di un altro, o per l'invidia gelosa di qualche donna [...] e allora non so dire quanto il buon parroco si sforzasse d'impedire queste scomposizioni [...], "figliuoli miei, abitate una sola casa, fate bollire un sol pentolo, lavorate tutti ed insieme, chè riunendo le vostre forze, riuscirete a quello che disuniti non farete mai".²²

¹⁹ See A.M. Banti, 'Ricchezza e potere. Le dinamiche patrimoniali nella società lucchese del XIX secolo', *Quaderni Storici*, 50 (1982), 629-61 (pp. 646-49); G. Biagioli, 'Patrimoni e congiuntura: crescita, crisi e ripresa di una famiglia nobile toscana fra Sette e Ottocento', in E. Luttazzi Gregori et al., eds, *Ricerche di storia moderna. 2, aziende e patrimoni di grandi famiglie (sec. XV-XIX)* (Pisa: Pacini, 1979), pp. 297-377 (p. 332-35). See also J.C. Davis, *The Decline of the Venetian Nobility as a Ruling Class* (Baltimore: Johns Hopkins Press, 1962).

²⁰ G. Carcano, *Il codice civile austriaco ed i suoi caratteri* (Milan: Manini, 1860), p. 27.

²¹ The journal *Guida dell'educatore*, directed by Raffaello Lambruschini, reported that Carlo Ravizza's best known book *Un curato di campagna: schizzi morali* was a valuable moral essay and was to 'riuscir grata ad ogn'Italiano, che desidera veder diffusa ne' più umili tugurj una sana morale'. See *Guida dell'educatore*, 7 (1842), 116-22 (p. 122).

²² C. Ravizza, *Un curato di campagna: schizzi morali* (Milan: Pirola, 1841), p. 30

The *curato di campagna* considered staying united a strength for families, a value to pursue in face of the pressures of modernity. The patriarchal family, symbol of a fading world, had its own rules and customs, which were questioned by new ideals introduced since the Enlightenment (I shall come back to this point in the following chapters). In this context, the ‘insubordinazione di un figliuolo’ was a major concern for the family, and for society, which rested on a rigid hierarchical structure.

Although Carlo Ravizza referred to the large patriarchal peasants’ families, which owned or rented small plots of land for cultivation, social dynamics among its members presented traits similar to those characterising other kinds of families, such as those belonging to the upper classes. The key in this regard was the possession of goods, and the most sensitive issue to a family was the transmission of this wealth: be it a *latifundium* or a small plot of land, a large sum of money, or just a piece of furniture. In broader terms, a family could be described as a moral body, led by men and composed of several members who recognised themselves as sharing a common name and identity, and resided in a family’s property.²³ ‘Un’area vasta anche se poco strutturata’, Cesarina Casanova argued, in which ‘i confini della solidarietà o dell’indifferenza si possono cogliere solo chiedendosi in quali occasioni per un individuo potere o non potere attivare una rete di sostegno fosse determinante per il suo successo e quali rapporti in queste occasioni risultassero preferenziali’.²⁴ Hence, the idea of family, and the mutual support it implied, had blurred boundaries, which were also defined by the sense of shared identity and behaviours, and, in time, loosened to allow new members to enter through marriages and births. Over the centuries, this large moral body became a smaller and more intimate group, and its

²³ On the notion of family, see also G. Vismara, *L’unità della famiglia nella storia del diritto in Italia* (Rome: Apollinaris, 1956); J.C. Davis, *A Venetian Family and Its Fortune, 1500-1900: The Donà and the Conservation of Their Wealth* (Philadelphia: American Philosophical Society, 1975), pp. 1-4; T.J. Kuehn, ‘Household and Family in Ius Commune and Ius Proprium’, in M. Carlier and T. Soens, eds, *The Household in Late Medieval Cities: Italy and Northwestern Europe Compared* (Leuven: Garant, 2001), pp. 37-50; V. Crescenzi, ‘Per una semantica della famiglia (ovvero: di cosa si parla, quando si parla di famiglia?)’, in A. Bixio and G. Crifò, eds, *Il giurista e il diritto: studi per Federico Spantigati* (Milan: FrancoAngeli, 2010), pp. 3-31; T.J. Kuehn, *Family and Gender in Renaissance Italy, 1300-1600* (Cambridge: Cambridge University Press, 2017), pp. 33-52.

²⁴ C. Casanova, *La famiglia italiana in età moderna: ricerche e modelli* (Rome: Carocci, 2000), p. 63.

hierarchical structure faced a progressive evolution towards a sort of ‘verticalization’, with the power usually held in one male hand.²⁵

The social, economic and political strength of the family coincided with the strength of its assets, to the extent that the possession of goods made the difference between having, or not having, significance before the law. If the medieval jurist Albericus of Rosciate (1290-1360) maintained that ‘*familia id est substantia*’ (the family is its wealth),²⁶ and Bartolus of Saxoferrato (1313-1357) confirmed that ‘*familia accipitur in iure pro substantia*’ (the family is taken in law for its wealth),²⁷ in nineteenth-century society, the family was still considered in a similar way: this also implied that its members were only those who were entitled to benefit from its *substantia*, and, in the words of Thomas Kuehn, ‘property was an ingredient in identity’.²⁸ In this *familia*, ideas about name, honour and prestige were a legacy of ancient times, and were transmitted through the male line only. From the Middle Ages up to the Ottocento, this ideal of *familia* continued to be characterised by behaviours and customs shared by other *familiae* of similar wealth. Their customs had legal value, and formed a bulk of customary laws enforceable and existent beyond the written law (this point will be analysed in Chapter 3).

3. Women and the family

In a family, the most prominent figure was represented by the *paterfamilias*, whose personal supremacy enabled him to be also *dominus* of the *patrimonium* of the *familia*. He was a male adult, head of the family, and holder of an almost endless *potestas* over his children

²⁵ On family structure in Middle Ages, see R.A. Goldthwaite, *Private Wealth in Renaissance Florence: A Study of Four Families* (Princeton: Princeton University Press, 1968); D. Herlihy, ‘Family Solidarity in Medieval Italian History’, *Exploration in Economic History*, 7 (1969), 173-84; F.W. Kent, *Household and Lineage in Renaissance Florence: The Family Life of the Capponi, Ginori, and Rucellai* (Princeton: Princeton University Press, 1977), pp. 21-62; Romano, *Famiglia, successioni e patrimonio*, pp. 60-85; V. Neri and B. Girotti, eds, *La famiglia tardoantica: società, diritto, religione* (Milan: LED, 2016).

²⁶ Albericus of Rosciate, *Dictionarium iuri tam civilis quam canonici* (Venice: [n. pub.], 1581), s.v. *Familia*.

²⁷ Bartolus of Saxoferrato, *Commentaria in primam infortiati* (Lyon: [n. pub.], 1552), p. 112. On this point, see also Kuehn, *Family and Gender*, pp. 48-51.

²⁸ Kuehn, *Family and Gender*, p. 49.

and grandchildren.²⁹ The ambiguous limits of the *potestas* were also extended to wives, who, from being under the authority of their fathers or grandfathers, after marriage fell under that of their husbands.

Since classical times, women were perceived as not being fully part of the family. For example, only grandchildren *ex filio* – and not those *ex filia* – were subject to the *potestas* of the *paterfamilias*. A woman could not have any person subject to her *potestas*,³⁰ and was considered as if she were the only component of her family. A woman was ‘*familiae suae et caput et finis est*’, ‘the beginning and the end of her family’, as the Roman jurist Ulpian wrote in the third century.³¹ Even though Ulpian described the family of his time, Carla Fayer noted that the characteristics of the Roman household were similar to those of the extended patriarchal peasant families existing in several areas of the nineteenth-century Italian peninsula.³² One might suggest that the parallels between Roman and peasant families could also be found in other extended patriarchal families, such as those of the nobility, the points in common being the possession of some wealth, the concerns for its

²⁹ The jurist Ulpian described the *familia* as ‘*plures personae, quae sunt sub unius potestate aut naturae aut iure subiectae*’ (several people, who are subjected to the authority of one either by nature or by law, *Digest*, 50.16.195.2 *Ulpianus libro 46 ad edictum*). The *potestas* (authority) is a major characteristic of the *familia* and is defined as the power to command and dispose of people and goods. This authority over family members implied the economic dependence on the *paterfamilias*, which meant ‘head of a family’. The *paterfamilias* was not subjected to any *potestas* and was *sui iuris* (of his own right, autonomous, independent). For the *paterfamilias* in Roman law, see C. Fayer, *La familia romana: aspetti giuridici ed antiquari*, 3 vols (Rome: “L’Erma” di Bretschneider, 1994), I, pp. 18-19; J.F. Gardner, *Family and Familia in Roman Law and Life* (Oxford: Clarendon, 1998), pp. 6-10. See also Romano, *Famiglia, successioni e patrimonio*. On paternal authority, see P. Ariès, *Padri e figli nell’Europa medievale e moderna* (Bari: Laterza, 1968); G. Lobrano, *Pater et filius eadem persona: per lo studio della ‘patria potestas’* (Milan: Giuffrè, 1984), in particular, pp. 25-27; Cavina, *Il padre spodestato*. On the role of the *paterfamilias*, see also Pellizer, Zorzetti and Maffi, eds, *La paura dei padri*.

³⁰ Fayer, *La familia romana*, I, p. 19.

³¹ *Digest*, 50.16.195.5. Among the major works of *Gnaeus Domitius Annius Ulpianus* (170?–228) were the two commentaries *Ad edictum* and *Ad Sabinum* which supplied to Justinian’s *Digest* about a third of its contents. The Law of Citations (*Lex citationum*), issued by the Emperor Valentinian III in 426 and later absorbed in the *Codex Theodosianus* (438), stated that judges were able to use only the doctrines of the five outstanding jurists Ulpian, Papinianus, Gaius, Modestinus and Paulus to interpret law and reach a decision. See also Albericus of Rosciate, *Dictionarium*, s.v. *Familia*, who maintained that ‘*mulier non habet familiam*’ (a woman does not have a family).

³² On this point see, Fayer, *La familia romana*, I, pp. 17-21.

transmission, and the *potestas a paterfamilias* exercised over people and goods. Yet in the Ottocento, the Turinese lawyer Francesco Concone drawing on Ulpian's words explained that,

dovendo le femmine onde lasciar discendenti da sé, passare a marito, che appartiene ad altra famiglia, e con ciò assumere nome diverso, si avevano a considerare, come se cessassero di far parte della famiglia del padre, o almeno ne fossero l'ultimo anello.³³

Women were destined to marry and give birth to children, who would perpetuate their husband's lineage.³⁴ By becoming part of another *familia*, women were excluded from substantial parts of the wealth of their family of origin, because this was to be assigned to the men who would bear the family's name. More importantly, as argued by the jurist Giovanni Maria Negri,

[c]essa [...] nei padri medesimi il fomite di accumular sostanze, allorché sanno, che queste devono già pervenire col mezzo delle femmine ad altre ignote famiglie. [Infatti] si veggono [...] sussistere de' secoli, col mezzo de' maschj, li più illustri casati, che ritengono colle loro sostanze lo splendor del loro cognome ad ornamento di queste contrade. I maschj sono quelli che conservano le proprie famiglie, e colle loro cure lo stato e la dovizia di esse.³⁵

The sole reason that would drive the *paterfamilias* to acquire wealth was the pursuit of honour and prestige for the *familia* that would bear his name. Amassing wealth for women, who would then give birth to children bearing someone else's name, was pointless. In a world characterised by power relations, hierarchy, authority and obedience, property was key and made status, real or vaunted.

In this context, when Napoleon extended the French civil code to the conquered regions, its family law and inheritance rules were a major challenge to the very foundation of Italian society. Along with the opportunity given to all children to succeed regardless of

³³ F. Concone, *Giurisprudenza femminile* (Turin: Fumero Maggiore, 1839), p. 144.

³⁴ Kuehn, *Law, Family and Women*, p. 199.

³⁵ G.M. Negri, *Dei difetti del Codice Civile Italico, che porta il titolo di Codice Napoleone e dei pregi del Codice Civile Austriaco* (Vicenza: Parise, 1815), p. 77.

their sex,³⁶ Napoleon's *Code Civil des Français*,³⁷ – or in its Italian version, the *Codice Civile di Napoleone il Grande pel Regno d'Italia*³⁸ – excluded the principle *paterna paternis, materna maternis*, which was used to identify the origin of assets to regulate inheritance.³⁹ These two principles were real novelties for the pre-unification legal systems, in which the predominance of sons and the regime of separation of property between spouses were broadly accepted. The strong resistance to Napoleon's family law, which also challenged parental authority,⁴⁰ was not just a fight against the law implemented by the conqueror: it reflected the concerns of the *paterfamilias*, who strove to keep his small 'monarchy' unchanged.⁴¹ Indeed, allowing all children – sons and daughters – to receive

³⁶ Art. 745, in *Codice Civile del Regno d'Italia*, in *Collezione Completa dei Moderni Codici Civili* (Turin: Minerva Subalpina, 1845), p. 43.

³⁷ The code, which was the work of a committee of jurists appointed by Napoleon and led by Jean-Étienne-Marie Portalis, consisted of 2281 articles, had the tripartite division of the Roman law (*personae, res, actiones*) and was strongly influenced by the Roman law in force in the south of the country. Its Italian translation was applied to the Italian territories by decree on 30 March 1806, and came into force the following day. The code unified the legal *régime* of the entire peninsula, with the exception of Sicily, Sardinia and some territories of the Venetia.

³⁸ Despite jurists and politicians demanding to include changes that would be more suitable to the juridical tradition of the Italian peninsula, Napoleon's will have prevailed, and prevented the introduction of codes other than a direct translation of the *Code Civil des Français*. See C. Ghisalberti, *Unità nazionale e unificazione giuridica in Italia* (Rome: Laterza, 1988), p. 135.

³⁹ Art. 732, in *Codice Civile del Regno d'Italia*, in *Collezione completa*, p. 42. The expression *paterna paternis, materna maternis* was used to signify those goods coming from the father of a deceased person descended to his paternal relations and those from the mother to the maternal side. As we shall see in Chapter 3, for example, the dowry, which was usually given by fathers, in case of a woman dying without children, returned to her line.

⁴⁰ Art. 488, in *Codice Civile del Regno d'Italia*, in *Collezione completa*, p. 29. In the Napoleonic code, paternal authority ended with the coming of age with individual becoming emancipated. This entailed that he or she was able to undertake juridical acts. Up to the enactment of the French code and, after the Congress of Vienna, with the recall into force of the *Ancien Régime* law, the coming of age did not lead automatically to emancipation, as on the basis of Roman law a person could be emancipated only by a formal act or after the death of his or her father. However, in many areas of the Italian peninsula, a son was considered emancipated when he attained the age of majority, was married and lived in a household different from that of his father.

⁴¹ The parallelism between family and monarchy could be drawn up from the words of Cesare Beccaria. He argued that 'vi siano cento mila uomini, o sia venti mila famiglie, ciascuna delle quali è composta da cinque persone, compresovi il capo che la rappresenta; se l'associazione è fatta per le famiglie, vi saranno venti mila uomini, e ottanta mila schiavi; se l'associazione è di uomini, vi saranno cento mila cittadini, e nessuno schiavo.'

the same portion of inheritance meant that properties would be divided into small shares, causing families a loss in status and prestige. This was a situation to be avoided for a society that perpetuated itself and its prerogatives by locking up its assets. The *Code Napoléon*, which was influenced by natural law and inspired by individuals' equality, regardless of social class, attacked this equilibrium, this immobility and this inequality.

From this perspective, it is easy to understand the advice given by Ravizza's country priest, who tried to persuade small landowners' families not to send their children to study Latin and, instead, 'bellamente li consigliava a mandar piuttosto i figli in qualche collegio dove fossero instituite le scuole di commercio, e più volentieri li avrebbe indirizzati a quello che avesse anche una scuola d'agricoltura e delle industrie affini'.⁴²

In the static Ottocento, staying within the boundaries of one's own social class was praised, and also strongly recommended. Attempts to improve the family trade were welcomed, but this should not lead to transitions from one social class to another. New relations and kinship links were usually created through marriages among people of similar wealth and status. Unlike the Napoleonic Code, which did not recognise class privileges, Italian society firmly discouraged and even punished any attempt at breaking down class barriers, and any aspiration to climb the social ladder. Thus, the *Costituzioni Estensi* of 1771,⁴³ which, except for the short Napoleonic period, remained in force in the Duchy of Modena until the advent of its 1851 *Codice Estense*,⁴⁴ condemned the marriage of 'disparaggio', that is, a marriage between a man and a woman of different social status. In

Nel primo caso vi sarà una repubblica, e venti mila piccole monarchie, che la compongono; nel secondo, lo spirito repubblicano non solo spirerà nelle piazze e nelle adunanze della nazione, ma anche nelle domestiche mura, dove sta gran parte della felicità o della miseria degli uomini'. Therefore, considering society as a gathering of families instead of people meant that some individuals were deemed to be subordinated to others. See, C. Beccaria, *Dei Delitti e delle pene* (Paris: Cazin, 1786), p. 144.

⁴² Ravizza, *Un curato di campagna*, p. 45.

⁴³ The *Costituzioni Estensi* were promulgated by Francesco III, Duke of Modena, in 1771. All statutes and municipal laws in force before their approval were abolished, but the use of Roman law was permitted for topics not covered by these *Costituzioni*.

⁴⁴ The Civil Code of Modena was promulgated by Francesco V on 1851. The code was enacted to reform and attune the law in force in the Duchy. This code, too, recognised the possibility to use other sources of law, such as the Roman law, to decide on topics not covered.

this act, Duke Francesco III declared that it was for the ‘importante oggetto del decoro delle famiglie, e del pubblico, e privato interesse’,⁴⁵ that:

qualunque nobile si accaserà con persona, il cui matrimonio per la di lei vile, e bassa condizione apporti disonore, e vitupero a sé, ed alla sua famiglia, non solamente tale nobile incontrerà la Nostra disapprovazione, ma inoltre ci riserviamo a dare contro di lui quei provvedimenti, che secondo le circostanze de’ casi crederemo opportuni, e convenienti.⁴⁶

A marriage of ‘disparaggio’ was considered such a dishonour that the monarch in person would intervene and assess the issue, deciding which provision was appropriate in the specific circumstance. The Duke, who was deeply concerned with keeping the social structure of his Duchy unchanged, also imposed sanctions against parents of humble condition who had contributed, ‘col consiglio, od anche con la semplice connivenza’, to encourage the marriage between their children and those of higher rank.⁴⁷ The importance of social class and the desire for society to remain static was not just a vague wish, but was pursued by the law itself, which contributed to perpetuate class stratification.

However, under some circumstances exceptions were permitted: for example, in the case of the potential impoverishment of some ‘illustri casati’, ‘hypergamous’ marriages between nobles with scant patrimonies, and very wealthy non-noble people were accepted.⁴⁸ An interesting example comes from the Papal States, where Tomaso Stramigioli, a wealthy man from Pesaro, married Augusta Antaldi in 1854. She had a dowry of 1,500 *scudi*,⁴⁹ quite meagre for a woman of her status: Augusta belonged to a family of some distinction and antiquity, still well regarded, despite her patrimony being hugely impoverished. To Tomaso, this marriage meant entering elite society. Augusta died a few months later, and Tomaso

⁴⁵ Art. VII Tit. XIII, *Codice Estense*, in *Collezione completa*, p. 810.

⁴⁶ Ibid.

⁴⁷ Art. IX Tit. XIII, *Codice Estense*, in *Collezione completa*, p. 810.

⁴⁸ Hypergamy is defined as marrying a person of higher social status. An overview of the pattern of the evolving definition of hypergamy, which was at first used in Indian sociology to define marriage with people of higher castes, can be found in C.L. Shehan, ed., *The Wiley Blackwell Encyclopedia of Family Studies*, 4 vols (Chichester: Wiley Blackwell, 2016), II, pp. 1085-86. For marriage between people belonging to different social classes, see also Meriggi, ‘Società, istituzione e ceti dirigenti’, in Sabbatucci and Vidotto, eds, *Storia d’Italia, 1. Le premesse dell’unità*, I, pp. 177-90.

⁴⁹ Pesaro, State Archive of Pesaro (SAP), Notaio Luigi Perotti, 1854.

married again shortly after. This time he married a woman from a wealthy but non-noble family. Her dowry consisted of 3,000 *scudi* and a trousseau.⁵⁰ Since Tomaso's wealth had not doubled within a few months, the difference in the amount of the two dowries tells us much about the customs of the time: Augusta, in addition to cash, brought to her marriage nobility and social status, which compensated for her limited dowry. Emilia, the second wife, came from a wealthy family, but could not boast a noble and ancient lineage. To be attractive in the marriage market, her dowry had to be higher than that of a noble, but less wealthy, woman.

Other than creating alliances and acquiring a higher status, marriage was also a way to restore a patrimony by means of the dowry brought by the bride to the new family.⁵¹ For example, Anna Bonaccorsi Dolcini Tredozio was a very wealthy woman from the Romagna region (then part of the Papal States): accordingly, she had an opulent dowry. In 1831, she married Baron Bettino Ricasoli (1809-1880), the future Italian prime minister (1861-1862 and 1866-1867).⁵² The marriage allowed Ricasoli to repay his family's debts and to improve and modernise his farms.

These cases suggest that monarchs and society's upper strata of the time used a specific strategy: on the one hand, monarchs aimed to maintain a powerful class of allies by praising these kinds of marriages; on the other, nobles ensured their survival as an influential body against the challenges brought along by the rise of the new bourgeois class.

⁵⁰ SAP, Notaio Luigi Perotti, 1855.

⁵¹ On marriage strategies in the Early Modern and the Enlightenment, see also R. Merzario, *Il paese stretto: strategie matrimoniali nella diocesi di Como, secoli XVI-XVIII* (Turin: Einaudi, 1981); A. Molho, *Marriage Alliance in Late Medieval Florence* (Cambridge: Harvard University Press, 1994), pp. 236-38; G. Delille, 'Strategie di alleanza e demografia del matrimonio', and M. De Giorgio, 'Raccontare un matrimonio moderno', in M. Beer, C. Klapisch-Zuber and M. De Giorgio, eds, *Storia del matrimonio* (Rome: Laterza, 1996), respectively pp. 283-306 and 307-90.

⁵² For further details on Ricasoli's marriage and his wife's dowry, see D. Bronzuoli, *Matrimoni e patrimoni. La dote di Anna Bonaccorsi e la strategia imprenditoriale di Bettino Ricasoli* (Florence: Polistampa, 2013). See also A. Moroni, 'Antica gente e subiti guadagni: patrimoni aristocratici fiorentini nell'800', *Biblioteca di storia toscana moderna e contemporanea*, 44 (1997), 1-364 (p. 143); Biagioli, 'Patrimoni e congiuntura', p. 343. See also the marriages of princes Errico Antonio and Massimo Montalto di Lequile from the Kingdom of the Two Sicilies. The dowries of their wives were explicitly mentioned as paying off several mortgages they had over their properties (P. Macry, *Ottocento: famiglia, élites e patrimoni a Napoli* (Turin: Einaudi, 1988), p. 52). See also the marriage strategies of the Barraco family (M. Petruszewicz, *Latifondo: economia morale e vita materiale in una periferia dell'Ottocento* (Venice: Marsilio, 1990), pp. 13-16).

Moreover, these cases show that the choice of the bride and groom was rarely driven by love: marriage was ‘un fatto più che mai “razionale”, concertato a tavolino dai genitori o dai membri più influenti della famiglia’.⁵³ In this context, as Lucetta Scaraffia observed, ‘la categoria dell’utile dominava i parametri estetici’.⁵⁴ Among the classes of proprietors, marriage complied with families’ aspirations to preserve their importance in society by becoming related to families of similar status and wealth, or to improve their status; among lower classes, marriage was contracted for similar, functional reasons. The ability to work, together with having a small dowry, which, for lower classes could consist of some pieces of furniture such as a bed or a wardrobe, made a woman desirable in the marriage market.

Scaraffia suggested that social dynamics in the countryside adhered to a model that always required the presence of a male and a female in the household. This also meant that, ‘la donna che entra nella famiglia come moglie e che si prepara a sostituire la madre serve a compensare la sorella che se ne esce’.⁵⁵ when one member of the couple was missing, he or she was replaced by another person, that is to say that, for example, the daughter-in-law replaced the sister, who relocated to another house after her marriage.⁵⁶ One might argue that similar behaviour could be inferred not only in contexts where labour force was crucial: men and women had fundamental and complementary roles in the upper strata of society as well, a point testified by the incidence of remarriage.⁵⁷ Indeed, the high mortality rate often

⁵³ G. Cozzi, *La società veneta e il suo diritto: saggi su questioni matrimoniali, giustizia penale, politica del diritto, sopravvivenza del diritto veneto nell’Ottocento* (Venice: Marsilio, 2000), p. 41.

⁵⁴ L. Scaraffia, ‘Essere uomo, essere donna’, in Melograni and Scaraffia, eds, *La famiglia italiana*, pp. 193-258 (p. 205).

⁵⁵ *Ibid.*, p. 195.

⁵⁶ *Ibid.*, pp. 203-07. A similar behaviour is also described in E. De Marchi, *Dai campi alle filande: famiglia, matrimonio e lavoro nella “pianura dell’Olona” 1750-1850* (Milan: FrancoAngeli, 2009), pp. 178-82.

⁵⁷ Although the lack of sufficiently large and reliable data did not allow to propose a consistent model, some studies analyse the demographics of remarriage for limited areas. See, for example, A. Bellettini, ‘Les Remariages dans la ville et dans la campagne de Bologne au dix-neuvième siècle’, in J. Dupâquier et al., *Marriage and Remarriage in Populations of the Past* (London: Academic Press, 1981), pp. 259-72; M. Livi-Bacci, ‘On the Frequency of Remarriage in Nineteenth Century Italy: Methods and Results’, in *Ibid.*, pp. 347-61; A. Schiaffino, ‘Quelques données sur le remariage dans un milieu urbain: Bologne aux dix-neuvième et vingtième siècles’, in *Ibid.*, pp. 397-409; M. Breschi, *La popolazione della Toscana dal 1640 al 1940. Un’ipotesi di ricostruzione* (Florence: Dipartimento Statistico, 1990), M. Breschi, A. Fornasin, M. Manfredini, and M. Zacchigna, ‘Family Composition and Remarriage in Pre-Transitional Italy: A Comparative Study’, *European Journal of Population*, 25/3 (2009), 277-96

resulted in an early end of marriages, and, subsequently, remarriages. As Trevor Dean and Kate Lowe explained, ‘the question of what the other spouse should do with regard to remarrying was [an] especially severe [dilemma] for women, who were supposed not to be able to function effectively without being married’.⁵⁸ On the male side, instead, ‘il existe un véritable tabou dans le domaine des travaux domestiques [...] les veufs ne peuvent pas rester sans femme, pas plus que les vieux célibataires qui gardent avec eux une vieille soeur destinée à leur entretien’.⁵⁹ Both men’s and women’s lives were imagined mainly as part of a marriage and a family.

4. Women and political participation: the Risorgimento

Leveraged by the ideals of the Enlightenment and the French Revolution, from the beginning of the Ottocento, the family began to be loaded with expectations. It was considered the place in which citizens were to be educated with a sense of motherland, and civic values were to be instilled.⁶⁰ Other than acquiring dignity and self-fulfilment through marriage, women were also asked to transmit patriotic values to their children, even though they were not included in the notion of citizenship. This notion was explained and developed by the German philosopher Immanuel Kant (1724-1804), who argued that only active participation in the political community provided an individual with the status of citizen and guaranteed the power to vote. Those who did not have such power could be treated according to natural law, but they could not be considered active members of the State. The major characteristic needed to be a citizen and to participate in the legislative power was

⁵⁸ Dean and Lowe, ‘Introduction: Issues in the History of Marriage’, p. 21.

⁵⁹ M. Segalen, ‘Mentalité populaire et remariage en Europe occidentale’, in Dupâquier et al., *Marriage and Remarriage*, pp. 67-76 (p. 67). See also C.A. Corsini, ‘Why is Remarriage a Male Affair? Some Evidence from Tuscan Villages during the Eighteenth Century’, in *Ibid.*, pp. 385-95.

⁶⁰ I. Porciani, ‘Famiglia e nazione nel lungo Ottocento’, in I. Porciani, ed., *Famiglia e nazione nel lungo Ottocento italiano: modelli, strategie, reti di relazioni* (Rome: Viella, 2006), pp. 15-54 (p. 50); R. Bizzocchi, ‘Una nuova morale per la donna e la famiglia’, in A.M. Banti and P. Ginsborg, eds, *Storia d’Italia. Annali 22. Il Risorgimento* (Turin: Einaudi, 2007), pp. 69-96; I. Porciani, ‘Disciplinamento nazionale e modelli domestici nel lungo Ottocento: Germania e Italia a confronto’, in *Ibid.*, pp. 97-125. On the idea of family and nation, see A.M. Banti, *Sublime madre nostra: la nazione italiana dal Risorgimento al fascismo* (Rome: Laterza, 2011).

the ‘sibusufficiencia’ (independence).⁶¹ The concept of independence was further explored by the French theorist and politician Emmanuel Joseph Sieyès (1748-1836). He argued that ‘il est constant qu’un vagabond, un mendiant ne peuvent être chargés de la confiance politique des Peuples’,⁶² and raised some doubts about a servant, a person employed by a master, or a foreigner could be accepted as representatives of a nation. Accordingly, a woman could not be counted among those having the independence needed to be citizens, because, as we shall see in the following chapters, she enjoyed fewer rights than men and depended on them.⁶³ The works of Kant and Sieyès analysed and translated into Italian from the early decades of the nineteenth century,⁶⁴ contributed to forge the idea of the ‘domestic’ woman. Lacking the independence and firmness of mind required to actively participate in public life, she was to remain secluded in the private sphere, the place nature had chosen for her.

At the time of the French Revolution, however, the patriotic impulse spread among women as well, and the target of a female *citoyenneté* slowly emerged.⁶⁵ The revolution led to the *Déclaration des droits de l’homme et du citoyen* (1789), which considered only men as citizens: the *Déclaration des droits de la femme et de la citoyenne* (1791) by Olympe de Gouges, as well as Condorcet’s work *Sur l’admission des femmes au droit de cité* (1790), firmly challenged women’s exclusion from civil rights.⁶⁶ With reference to the Italian peninsula, since the late eighteenth century, journalists such as Elisabetta Caminer Turra

⁶¹ I. Kant, *On the Old Saw: That May Be Right in Theory but it Won’t Work in Practice* (Berlin, Boston: University of Pennsylvania Press, 2013 [1793]), pp. 62-65. See also P. Costa, *Cittadinanza* (Rome and Bari: Laterza, 2005), p. 48; J. Weinrib, ‘Kant on Citizenship and Universal Independence’, *Australian Journal of Legal Philosophy*, 33 (2008), 1-25 (pp. 2-4).

⁶² E.J. Sieyès, *Qu’est-ce que le Tiers-État?* (Paris: [n. pub.], 1789), p. 38.

⁶³ *Ibid.*, pp. 37-38; see also E.J. Sieyès, *Observations sur le rapport du Comité de constitution concernant la nouvelle organisation de la France* (Versailles: Baudouin, 1789).

⁶⁴ For example, the Pisan jurist Giovanni Carmignani studied Kant’s works and described him as having ‘immenso ingegno’. See, G. Carmignani, *Teoria delle leggi della sicurezza sociale*, 3 vols (Pisa: Nistri, 1831), I, p. 142.

⁶⁵ G. Bock, *Le donne nella storia europea. Dal Medioevo ai giorni nostri* (Rome: Laterza, 2001), p. 59

⁶⁶ O. de Gouges, *Déclaration des droits de la femme et de la citoyenne*, E. Gaulier, ed. (Paris: Mille et une nuits, 2003), p. 17; N. Condorcet, *Sur l’Admission des femmes au droit de cité* (Paris: Firmin Didot Frères, 1847), pp. 5-6. On women and the French revolution, see also E.G. Sledziewski, ‘Rivoluzione e rapporti fra i sessi. La svolta francese’, in G. Duby and M. Perrot, *Storia delle donne. L’Ottocento* (Rome and Bari: Laterza, 1991), pp. 34-50.

(1751-1796) and Eleonora Fonseca Pimentel (1752-1799) had attempted to carve out a space that would allow them to contribute to public discourse. Elisabetta Caminer Turra began working as a journalist for her father's journal *Europa letteraria* in 1768. She addressed several topics without neglecting women's issues, such as the need for education, or forced monachization.⁶⁷ Eleonora Fonseca Pimentel, who Verina Jones defined as 'the journalist and opinion-maker of the Repubblica Partenopea', was in charge of *Il monitore napoletano* from its very foundation on 2 February 1799. She was executed with the reestablishing of the Bourbon monarchy a few months later.⁶⁸

The attempts of these few women to make their voices heard did not mean that women asked for the *droit de cité*:⁶⁹ for example, in *Pensieri della libera cittadina I. P. M. alle sue concittadine*, a pamphlet printed in 1797, the anonymous writer argued that,

se il mezzo più eloquente alla modificazione negl'uomini è la susta del cuore, sarà incontrastabile la grande influenza del nostro sesso, per ridestare dal sonno de' buoni Cittadini, che poi l'amore della libertà, la forza dell'opinione, l'abitudini, l'esempio renderanno ben presto perfetti. Una buona Cittadina non dovrebbe stimar il suo attinente, il suo amico, che in proporzione alla di lui attività per meritare dalla patria.⁷⁰

⁶⁷ V.R. Jones, 'Journalism, 1750-1860', L. Panizza and S. Wood, eds, *A History of Women's Writing in Italy* (Cambridge: Cambridge University Press, 2000), pp. 120-34 (pp. 122-24).

⁶⁸ Ibid., pp. 128-30. See also B. Bertolo, *Donne del Risorgimento. Le eroine invisibili dell'Unità d'Italia* (Rome: Ananke, 2011), pp. 351-54.

⁶⁹ An analysis of women's participation to the eighteenth-century events of the Italian peninsula can be found in Evans, *The Feminists*, pp. 136-37; A. Buttafuoco, 'Straniere in patria. Temi e momenti dell'emancipazione femminile italiana dalle Repubbliche giacobine al fascismo', in A.M. Crispino, ed., *Esperienza storica femminile nell'età moderna e contemporanea: Atti del seminario*, 2 vols (Rome: Unione donne italiane circolo "La Goccia", 1988), II, pp. 91-124 (pp. 95-97); A. Buttafuoco, 'La causa delle donne. Cittadinanza e genere nel triennio "giacobino" italiano', in A. Buttafuoco, ed., *Modi di essere: studi, riflessioni, interventi sulla cultura e la politica delle donne in onore di Elvira Badaracco* (Bologna: EM, 1991), pp. 79-106; G. Bonacchi and A. Groppi, *Il dilemma della cittadinanza: diritti e doveri delle donne* (Rome: Laterza, 1993); M.T. Guerra Medici, *La cittadinanza difficile* (Camerino: Università di Camerino, 2000); N.M. Filippini, 'Donne sulla scena politica: dalle Municipalità del 1797 al Risorgimento', in N.M. Filippini, ed., *Donne sulla scena pubblica: società e politica in Veneto tra Sette e Ottocento* (Milan: FrancoAngeli, 2006), pp. 81-137 (in particular, pp. 85-123); G.L. Fruci, 'Cittadine senza cittadinanza. La mobilitazione femminile nei plebisciti del Risorgimento (1848-1870)', *Genesis*, 5/2, (2006), 21-55. See also P. Costa, 'Diritti/Doveri' and A. Chiavistelli, 'Rappresentanza', in Banti, Chiavistelli, Mannori, Meriggi, eds, *Atlante culturale del Risorgimento*, pp. 270-84 and pp. 343-58.

⁷⁰ *Pensieri della libera cittadina I. P. M. alle sue concittadine* (Venice: Zatta, 1797), p. 5.

Although the writer defined herself as a female citizen, she confined herself to merely describing the influence women could have on male citizens. Similarly, in her *Breve difesa dei diritti delle donne* (1794), Rosa Califronia, a self-styled Roman countess, set out to defend women's rights, which she described as 'l'autorità legittima di fare, e di avere, o di ricuperare ciò che è proprio'.⁷¹ With this aim, she attempted to refute the 'accusations' against women as being 'prive di ragione', 'pazze', 'piene di vizi [e] causa d'ogni male'.⁷² Califronia, too, did not go further than responding to commonplaces on women, and did not make any explicit claim of rights.

In her *Schiavitù delle donne* (1797), Carolina Arienti Lattanzi (1771-1818) went slightly further and addressed women's inferior status. She also pointed out that the 'istituzione delle doti ci divenne pregiudicievole da che fossimo escluse dall'averne un'eguale diritto coi maschi alla distribuzione della paterna eredità'.⁷³ Her arguments, however, were not echoed and did not have any other consequences.

With the Restoration, the overthrown monarchs made a strong effort to return to the past by reinforcing the *Ancien Régime's* legal framework, even if several articles from Napoleon's code (e.g. those on mortgages and contracts) were left unchanged. However, the ideals of the Enlightenment and the French Revolution had a significant impact on the Italian peninsula, and, from the very first years of the French conquests, testified to a 'dilatazione degli spazi del dibattito politico'.⁷⁴ This led to the active participation of several strata of the population, not only in public debate but also in the Risorgimento process as a whole.⁷⁵

⁷¹ R. Califronia, *Breve difesa dei diritti delle donne scritta da Rosa Califronia contessa romana* (Assisi: Taglioretti, 1794), p. VII.

⁷² *Ibid.*, pp. XII-XXXIV.

⁷³ C. Lattanzi, *Schiavitù delle donne*, ed. by G. Zacchè (Mantua: Edizioni Lombarde, 1976), p. 41. Jones, 'Journalism, 1750-1860', pp. 126-27. Carolina Lattanzi also worked as an editor for the *Corriere delle dame* from 1804 until her death in 1818.

⁷⁴ Banti, *Il Risorgimento italiano*, pp. 6-11.

⁷⁵ Bibliography on the Italian Risorgimento is vast. Recent studies that touch upon participation to the process across social classes, include, for example, J.A. Davis and P. Ginsborg, *Society and Politics in the Age of the Risorgimento: Essays in Honour of Denis Mack Smith* (Cambridge: Cambridge University Press, 2002); Banti, *Il Risorgimento italiano*; Banti and Ginsborg, eds, *Storia d'Italia*; M. Isnenghi and E. Cecchinato, *Fare l'Italia: unità e disunità nel Risorgimento* (Turin: UTET, 2008); L. Riall, *Risorgimento: The History of Italy*

Alongside the political redefinition of states' boundaries, the Risorgimento was a movement that saw people from different social classes experiencing a sense of unity and sharing the common aim of fighting against the oppressors. Women, too, participated in this process.⁷⁶ They served the cause in different ways, and their participation was not only limited to what society considered to be respectable for a woman, such as the organisation of hospitals and charities, as in the case of Cristina Belgiojoso.⁷⁷ An important contribution to the process of the Risorgimento also came from various salons, where people gathered, discussed and shared their ideals of patriotism. Among the most famous salons, there were those of Clara Carrara Spinelli Maffei in Milan and Bianca Rebizzo in Genoa.⁷⁸ Other women, such as countess Teresa Casati Confalonieri, Metilde Visconti Dembowski, Maria Gambarana Freccavalli, Bianca Milesi, Camilla Besana Fé and Teresa Sopranzi Agazzini, played a meaningful role in secret revolutionary societies, among which the Società delle Giardiniere, the female branch of the Carbonari movement.⁷⁹ In particular, in

from Napoleon to Nation-State (New York: Palgrave Macmillan, 2009).

⁷⁶ On women's participation, see R. Pescanti Botti, *Donne nel Risorgimento italiano* (Milan: Ceschina, 1966); E. Morelli, 'La partecipazione delle donne al Risorgimento', in Calvi and Chabot, eds, *Le ricchezze delle donne*, pp. 45-60; Fruci, 'Cittadine senza cittadinanza'; E. Sodini, *Le carte di Felicita Bevilacqua: famiglia, nazione e patriottismo al femminile in un archivio privato (1822-1899)* (Verona: Cierre, 2010). A number of works were published on the occasion of the 150th anniversary of Unification. See, for example, Bertolo, *Donne del Risorgimento*; E. Doni et al., *Donne del Risorgimento* (Bologna: Il Mulino, 2011); L. Guidi, A. Russo and M. Varriale, *Il Risorgimento invisibile. Patriote del Mezzogiorno d'Italia* (Naples: Comune di Napoli Edizioni, 2011); M. Varriale, 'Perché anche noi siamo cive[s]': reti amicali e familiari nel Carteggio Ranieri', *Chronica Mundi*, 12 (2017), 73-98.

⁷⁷ Cristina Trivulzio di Belgiojoso has been the object of a number of studies. Among these, see more recently G. Conti Odorisio, C. Giorcelli and G. Monsagrati, eds, *Cristina di Belgiojoso: politica e cultura nell'Europa dell'Ottocento* (Casoria: Loffredo, 2010); M. Fugazza and K. Rörig, eds, "La prima donna d'Italia". *Cristina Trivulzio di Belgiojoso tra politica e giornalismo* (Milan: FrancoAngeli, 2010); G. Proia, *Cristina di Belgiojoso: dal salotto alla politica* (Rome: Aracne, 2010); M. Grosso and L. Rotondo, "'Sempre tornerò a prendere cura del mio paese e a rivedere te". Cristina Trivulzio di Belgiojoso', in Doni et al., *Donne del Risorgimento*, pp. 65-94; S. Wood, 'Murder in the Harem: Cristina di Belgiojoso', in Mitchell and Sanson, eds, *Women and Gender in post-Unification Italy*, pp. 135-52.

⁷⁸ M.T. Mori, *Salotti: la sociabilità delle élite nell'Italia dell'Ottocento* (Rome: Carocci, 2000); C. Gastel Chiarelli, *Niente zucchero nel calamajo: lettere di Giuseppe Verdi a Clara Maffei* (Milan: Archinto, 2005); Bertolo, *Donne del Risorgimento*, pp. 41-45 and 62-64; M. Serri, 'La piccola grande tessitrice. Clara Maffei', in Doni et al., *Donne del Risorgimento*, pp. 111-22.

⁷⁹ See Doni et al., *Donne del Risorgimento*.

1822, the frequent trips to Turin by Teresa Sopranzi Agazzini raised suspicions among Milanese authorities. She was brought before the special committee that dealt with political crimes, and questioned about her relations with Federico Confalonieri.⁸⁰ The high level of her relations emerges from the short transcript of her interrogation:

Commissione: Ha mai ricevuto pieghi da consegnare a Confalonieri?

Teresa: No.

Commissione: Un piego che doveva essere trasmesso al principe di Carignano?

Teresa: No.

Commissione: Sicura?

Teresa: Non ho ricevuto alcun piego diretto al principe di Carignano né il mio onore permette che io esponga ciò che non è.⁸¹

Teresa Sopranzi Agazzini not only had close relations with Confalonieri, but was also deemed to be capable of handling messages to the Prince of Carignano, the King of Sardinia. It is worth noting the way she put into play her social status by suggesting that things were as she reported them, and that questioning her words would besmirch her honour.

Some women became protagonists of other crucial subversive activities and crimes in the name of Italy.⁸² For example, in the Papal States, by 1851, there were many political offences pending before courts. These related to the period 1848-1849 and were differentiated between crimes considered as ‘simply political’, or as ‘political accompanied by a common crime’. Many women who were to be prosecuted were aged between 17 and 53, and belonged to different social classes. In addition to individual ‘subversive’ episodes, the participation of some women was more decisive. A case in point was that of Caterina Baracchini, a woman from Rome, who distributed clandestine prints, hid several people who were sought by the Papal police, and played a crucial role among the conspirators in general at the time of the 1849 Roman Republic. The sentence, which condemned her to fifteen years in prison, described her as a ‘fiera mazziniana, era socia e con essa non si faceva alcun mistero delle cose della Società. Aveva un ruolo rilevante nella direzione della Società’.⁸³

⁸⁰ Milan, State Archive of Milan (SAM), Processi Politici, 43, 1112 and 1127.

⁸¹ SAM, Processi Politici, 43, 1127.

⁸² See also *Stato degli inquisiti dalla S. Consulta per la rivoluzione del 1849* (Rome: Vittoriano, 1937), p. 8.

⁸³ *Ibid.*, p. 103.

Many women also served the cause through the fervent dissemination of ideas (e.g. Sara Nathan or Jessie White Mario),⁸⁴ while others fought, and were killed, on the barricades.⁸⁵ Some women, finally, also became involved in illicit activities as part of the phenomenon of brigandage in Southern Italy.⁸⁶

In sum, women's presence in the Risorgimento was significant: they conspired and fought side by side with men, carried tricolour cockades and showed their support for the cause.⁸⁷ Rather than seeking emancipation, though, they primarily aimed at contributing to the liberation from foreign oppressors and to national unification. Despite being a sign of women's desire to actively participate in society and have roles beyond the household, their participation did not lead to a clear redefinition of ideas on women.⁸⁸ Once peace was reached, most women returned to play their traditional role of angel of the hearth. As we shall see in the next chapter, their subordinate status was indisputable: notions about women were rooted in ancient beliefs and often also shared by the women themselves.

⁸⁴ On Sara Levi Nathan, see S. Pallunto, *Sara Levi Nathan* (Pesaro: Comune di Pesaro, 1993); A.M. Isastia, *Storia di una famiglia del Risorgimento. Sarina, Giuseppe, Ernesto Nathan* (Turin: Università Popolare di Torino, 2010). On Jessie White Mario, see D. Lewis, *Jessie White Mario: An English Heroine in the Liberation of Italy* (Oxford: Eureka Press, 2006); Bertolo, *Donne del Risorgimento*, pp. 132-51.

⁸⁵ Bertolo, *Donne del Risorgimento*, pp. 271-305; E. Doni, 'Rose bianche per un soldato. Colomba Antonietti', in Doni et al., *Donne del Risorgimento*, pp. 25-33.

⁸⁶ For an overview of brigandage, see A. Carteny, 'Il brigantaggio in Italia tra Risorgimento e questione meridionale: un'introduzione al tema', *Chronica Mundi*, 11 (2016), 249-71. See also J. Dickie, 'A World at War: The Italian Army and the Brigandage 1860-1870', *History Workshop Journal*, 33 (1992), 1-24; N. Tieri, *Il brigantaggio post unitario. Un'analisi di sociologia storica* (Rome: Aracne, 2013); G. Mazza, *Tra storia e storie. Banditismo, brigantaggio e milizie civili nel meridione d'Italia dal XVI al XIX secolo* (Rome: Aracne, 2015); F.G. Scoca, *Il brigantaggio postunitario nel dibattito parlamentare (1861-1865)* (Naples: Editoriale Scientifica, 2016); and, with specific reference to women, see M. Schwegman, 'Horrific Heroines: Female Brigandage, Honour and Violence in Post-Unification Italy, 1860-1870', in Mitchell and Sanson, eds, *Women and Gender in post-Unification Italy*, pp. 111-31.

⁸⁷ The *Registro delle persone di Fano e suo distretto pregiudicate in opinione politica (30-12-1834)*, held at the Archivio of the Biblioteca Federiciana of Fano, reports the names of various women. For example, Maddalena Tranquilli, 'libera col vestire una foggia di tre colori e con il parlare il linguaggio [...] del più deciso, ed accanito liberalismo' or the wife of the head of the hospital that wore tricolor cockades. See also *Registro di Pesaro e suo distretto pregiudicate in opinione politica (12-6-1835)*, published in *Studia Oliveriana*, 10 (1990).

⁸⁸ On this point, see also D.E.D. Beales and E.F. Biagini, *The Risorgimento and the Unification of Italy* (London: Longman, 2002), pp. 136-41.

Chapter 2

Ideals of women in men's and women's writings

In the eighteenth and nineteenth centuries, the vision of women was strictly standardised and categorised. The legacy of traditional views, which had pervaded earlier times and depicted women as pious, virginal and obedient or temptresses and *ianua diaboli*, still persisted and influenced mindsets. Even if it was no longer to the same extreme degree, theorists and moralists, as well as physicians and jurists, still considered women different to men. Starting from the scientific assumption that weaker female bodies entailed that women were less able to develop rational and consistent ideas, they justified their different role and position within society, and elaborated many works of conduct literature aimed at helping them to deal with everyday life. A number of tracts also addressed men and were written to inform and give means to understand female and male perspectives, as well as to correctly assess their different status.

In this chapter, I shall analyse the different theories and points of view elaborated to assert women's subjugation to men. As we shall see, these ideas were also shared by some women educationalists, who endorsed the common-place of the domestic woman, ideally a wife and mother,¹ whose life was to be spent within her home, where womanly virtues were more useful. However, the events of the Risorgimento brought women outside their homes and led them to redefine their self-consciousness, also questioning the boundaries of the private and public sphere.

1. The ideology on women

The analysis of differences between the sexes served the goal of asserting women's incapacity, and, as explained by Ian Maclean, was considered 'a feature of higher animals, [...] postulated in plants and even metals by alchemists, and essential to mystical understandings of the universe'.² For centuries, women's alleged incapacity and their

¹ On this point see Badinter, *L'Amour en plus*, pp. 13-15.

² I. Maclean, *The Renaissance Notion of Woman: A Study in the Fortunes of Scholasticism and Medical*

infirmitas, *imbecillitas* and *levitas* were explained by considering their different body temperature and humours. Hippocratic physicians considered women hotter than men, but, as they were imagined absorbing liquids like a sponge, their need to excrete these excess fluids resulted in them being more unstable.³ Aristotle and Galen, instead, claimed that men were hotter and drier than women and thus more perfect, as hotness and dryness were considered characteristics of perfection. The female principle was cold, wet, passive, deprived, ‘the result of a generative event not carried through to its final conclusion’, requiring the male principle to complete itself.⁴ According to Galen, women and men had similar organs, but, as those of women were internal, this implied they were imperfect and, even, mutilated.⁵

The Greco-Roman theories of bodily humours and female imperfection persisted for centuries, and, still in the fifteenth century, Aquinas claimed that a woman was a *mas occasionatus*, a defective male, for whom nature’s intentions had not been fully accomplished.⁶ In the sixteenth century, although physicians’ *observationes* contributed to a better understanding of the human body – see for example Gabriele Falloppio’s (1523?-1562) *Observationes anatomicae* (1561) – women were still considered inferior to men because their weaker body was deemed to have an impact on their mind.

The comparison between men’s and women’s body and their impact on minds would affect the elaboration of theories for a long time still. At the end of the eighteenth century,

Science in European Intellectual Life (Cambridge: Cambridge University Press, 1980), p. 30.

³ On women and physiology, see G.K. Paster, ‘Unbearable Coldness of Female Being: Women’s Imperfection and the Humoral Economy’, *English Literary Renaissance*, 28/3 (1998), 416-40; H. King, *Hippocrates’ Woman: Reading the Female Body in Ancient Greece* (London: Routledge, 1998), pp. 31-33. See also, Hippocrates, *Natura della donna*, ed. by V. Andò (Milan: Rizzoli, 2000).

⁴ Maclean, *The Renaissance Notion of Woman*, p. 30.

⁵ For an overview of these theories, see Maclean, *The Renaissance Notion of Woman*, pp. 28-46. See also T. Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge and London: Harvard University Press, 1992), pp. 194-207; Guerci, *La discussione*, pp. 143-60 (particularly pp. 144-46); L. Schiebinger, *The Mind has no Sex? Women in the Origins of Modern Science* (Cambridge; London: Harvard University Press, 1991 [1989]), pp. 163-64; Hufton, *The Prospect before Her*, pp. 23-58; R. Messbarger and P. Findlen, eds, *The Contest for Knowledge: Debates over Women’s Learning in Eighteenth-Century Italy* (Chicago: University of Chicago Press, 2005), pp. xii-xiv.

⁶ T. Aquinas, *La somma teologica. Testo latino e italiano* (Bologna: Edizioni Studio Domenicano, 1985 [1485]), p. 193. See also A. Bernal Palacios, ‘La condiciòn de la mujer en sancto Tomàs de Aquino’, *Escritos del Vedat*, 4 (1974), 285-355.

the Swiss physiognomist Johann Kaspar Lavater (1741-1801), who was inspired by the Neapolitan scholar Giambattista Della Porta (1535-1615) and by the British philosopher Thomas Browne (1605-1682), explained that the physical characteristics of women, ‘tender, yielding, easily wounded, sensible, and receptive’,⁷ were manifest also in their mind. In particular, the tenderness of female organs meant that women were ‘formed to maternal mildness and affection’,⁸ a weakness which strongly contrasted with men’s mental and physical strength. A woman, who in the words of Thomas Browne in *Religio Medici* (1643) was ‘the Rib and crooked Piece of Man’,⁹ had the function to comfort man ‘like angels, and to lighten his cares’.¹⁰ Women were the ‘counterpart of man, taken out of man, to be subject to man, [the] light texture of their fibres and organs, [the] volatility of feeling, render them so easy to conduct and to tempt; so ready of submission to the enterprise and power of the man’.¹¹ Despite the softness and tenderness of their bodies, Della Porta had already warned in his *De humana physiognomonia* (1586) that women were ‘ladr[e] e pien[e] d’inganni’.¹² Based on his study of physiognomy, he pointed out how close observation of people’s physical features could explain their personality traits. For example, Della Porta asserted that women have features similar to those of leopards, and consequently were just as treacherous.¹³ Lavater’s works on physiognomy, as well as those of Della Porta and Browne, were later taken into account by Cesare Lombroso (1835-1909), who, towards the end of the nineteenth century, elaborated his theories on the correspondence between physiognomic characteristics and the inclination to commit a crime.¹⁴

⁷ J.K. Lavater, *Physiognomy: Or the Corresponding Analogy between the Conformation of the Features, and the Ruling Passions of the Mind* (London: Tegg, 1866 [1775-1778]), pp. 181-82. The German original work of Lavater was translated into Italian from the French version with the title of *L’arte di conoscere gli uomini dalla loro fisionomia* (Milan: Agnelli, 1808).

⁸ Lavater, *Physiognomy*, pp. 181-82.

⁹ T. Browne, *Religio Medici: Or, the Christian Religion, as Professed by a Physician; Freed from Priest-Craft and the Jargon of Schools*, 2 vols (London: Curll, 1736), II, p. 92.

¹⁰ Lavater, *Physiognomy*, pp. 181-82.

¹¹ *Ibid.*

¹² G.B. Della Porta, *De humana physiognomonia libri sex*, ed. by A. Paoletta (Naples: Edizioni scientifiche italiane, 2013), p. 88.

¹³ *Ibid.*, pp. 87-90.

¹⁴ See for example C. Lombroso, *L’uomo delinquente* (Milan: Hoepli, 1876); C. Lombroso and G. Ferrero, *La donna delinquente, la prostituta e la donna normale* (Turin: Bocca, 1903 [1893]).

Based on these ideas, men of letters and educationalists believed that women were inferior to men and, therefore, needed to be treated differently. Alongside more traditionally misogynistic views, women were usually described as having a vivid imagination and bodies that strongly affected their minds. As the Genoese philosopher Paolo Mattia D’Oria explained in his *Ragionamenti* (1716), the ‘prevalere della fantasia sulla potenza dell’intelletto’ prevented women from being able to restrain themselves and reach real virtue.¹⁵ Despite having some similarities to men, and perhaps even the ability to build empires and states, women were ‘incapaci del grande officio di legislatore’, because this required a level of wisdom which they simply did not, and could not, have.¹⁶

With the Enlightenment, new ideas and values began to take form: ‘education was at the hearth of the Enlightenment project’.¹⁷ As Ann Hallamore Caesar explains, it radiated out ‘not only in ground-breaking works that specifically addressed the subject, but also indirectly by infiltrating and informing the growing volume of printed matter directed at an emergent literate middle class with secular and worldly ambitions’.¹⁸ This led also to new attitudes towards women and motherhood, and to lively debates on their education and their potential contribution as a ‘madre educatrice’ to the well-being of families and society. Even though female identity was ‘il riflesso di un immaginario maschile [...] nella cultura scritta, ma anche [...] di una serie di modelli comportamentali, espressione anche di una determinata rappresentazione dell’ordine sociale’,¹⁹ the importance of women’s role for the

¹⁵ P.M. D’Oria, *Ragionamenti di Paolo-Mattia D’Oria indirizzati alla signora donna Aurelia d’Este duchessa di Limatola ne’ quali si dimostra la donna, in quasi che tutte le virtù più grandi, non essere all’uomo inferiore* (Frankfurt: [n. pub.], 1716), p. 313.

¹⁶ D’Oria, *Ragionamenti*, pp. 343-44.

¹⁷ A. Hallamore Caesar, ‘Gender, Genre and Education. Writing about Conduct in Eighteenth-Century Venice’, in Sanson and Lucioli, eds, *Conduct Literature for and about Women in Italy*, pp. 119-34 (p. 119). On Enlightenment’s theories on women’s nature see also P. Hoffman, *La Femme dans la pensée des Lumières* (Paris: Ophrys, 1977); Badinter, *L’Amour en plus*, pp. 154-55; S. Dalton, *Engendering the Republic of Letters: Reconnecting Public and Private Spheres in Eighteenth-Century Europe* (Montreal; London: McGill-Queen’s University Press, 2003).

¹⁸ Hallamore Caesar, ‘Gender, Genre and Education’, p. 119.

¹⁹ C. Covato, ‘Educata a non istruirsi: un’introduzione al problema’, in C. Covato and M.C. Leuzzi, eds, *E l’uomo educò la donna* (Rome: Editori riuniti, 1989), pp. 25-45 (p. 27).

development and upbringing of children was particularly highlighted.²⁰ Women's education became an issue to be broadly discussed and deeply analysed in tracts and conduct books. The point was that women who began to study were 'una realtà che andava assumendo un'inaspettata e inquietante ampiezza di dimensioni'.²¹ They also attained some success to the extent that, in 1723, the famous Accademia dei Ricovrati of Padua held a disputation intended to address the question of whether or not women were to be admitted to the study of sciences and of the noble arts,²² with Giovanni Antonio Volpi insisting that women should not study in order to avoid the risk of endangering the good order of family and society.²³

Yet, if not a 'mutamento di ruolo, non mancarono le istanze a favore di un mutamento nel ruolo':²⁴ the rise of the idea of the 'madre educatrice' implied that 'women themselves required a better education, to ensure that they, in turn, would be able to better educate their own children'.²⁵ As we shall see further on, the future success of children came to be seen as conditional on their mothers, since, as the Neapolitan jurist and philosopher Gaetano Filangieri (1753-1788) argued, 'esse gli nutrono e gli educano ne' primi anni

²⁰ H. Sanson, "'La madre educatrice" in the Family and Society in Post-Unification Italy: The Question of Language', in Mitchell and Sanson, eds, *Women and Gender in Post-Unification Italy*, pp. 39-63 (pp. 44-50). See also H. Sanson, *Women, Language and Grammar in Italy, 1500-1900* (Oxford: Oxford University Press, 2011), pp. 251-52. On women's education see also S. Soldani, ed., *L'educazione delle donne: scuole e modelli di vita femminile nell'Italia dell'Ottocento* (Milan: FrancoAngeli, 1989); S. Ulivieri, *Educare al femminile* (Pisa: ETS, 1995); S. Ulivieri, *Le bambine della storia dell'educazione* (Rome and Bari: Laterza, 2003); A. Ascenzi, *Il Plutarco delle donne: repertorio della pubblicistica educativa e scolastica e della letteratura amena destinata al mondo femminile nell'Italia dell'Ottocento* (Macerata: EUM, 2009), pp. 17-28; M. Corradi, "'Un esercito femminile": educazione e nation-building nell'Italia del secondo Ottocento', *Chronica Mundi*, 13 (2018), forthcoming.

²¹ Guerci, *La sposa obbediente*, p. 12.

²² On this point, see F. Lussana, 'Misoginia e adulazione: ambiguità dell'immagine femminile nel secolo dei Lumi', *Studi Storici*, 2 (1984), 547-58; L. Ricaldone, 'Eighteenth-century Literature', in Panizza and Wood, eds, *A History of Women's Writing in Italy*, pp. 95-106; Messbarger, *The Century of Women*, pp. 21-48.

²³ G.A. Volpi, *Che non debbono ammettersi le donne allo studio delle scienze, e delle belle arti* ([n. p.]: [n. pub.], 1723), pp. 8-10. See also Guerci, *La discussione*, pp. 171-72; and Messbarger, *The Century of Women*, pp. 36-40.

²⁴ Guerci, *La sposa obbediente*, pp. 13-14.

²⁵ Sanson, "'La madre educatrice"', pp. 44-50 (p. 45).

della vita; esse spargono i primi semi del vizio o della virtù ne' loro teneri cuori'.²⁶ Therefore, women's role within the household was increasingly regarded as a matter of great importance, and, alongside the function of nourishing their children, they were also entrusted with the task of educating them. In particular, they were charged with educating children about the moral values which upheld civil society.²⁷

The rise of the idea of the 'madre educatrice' meant that emphasis was placed on women's function as educators of their children, but, at the same time, the role of the father, who took decisions regarding education, was still upheld. Mothers therefore provided their children with a very first education which was normally first approved and endorsed by fathers.²⁸ The premise that quality of mind was contingent on the strength of one's body remained unquestioned, and, consequently, it was men, not women, who debated the degree to which women should and could study in order to fulfil this new role.

In the Italian peninsula, various works published during the Enlightenment in France, such as *Émile ou De l'éducation* published in 1762, were known and influenced this debate.²⁹ In this work, Jean-Jacques Rousseau explained that women were created for men, and, therefore, 'toutes les réflexions des femmes en ce qui ne tient pas immédiatement à leurs devoirs, doivent tendre à l'étude des hommes ou aux connaissances agréables qui n'ont que le goût pour objet'.³⁰ He conceded that women and men depended on each other, but argued that their dependence was not equal,³¹ as women were made 'pour plaire et pour être

²⁶ G. Filangieri, *La scienza della legislazione*, 8 vols (Genoa: Gravier, 1798 [1780]), VII, p. 215.

²⁷ Badinter, *L'Amour en plus*, pp. 252-53.

²⁸ C. Pancera, 'Figlie del Settecento', in S. Ulivieri, ed., *Le bambine nella storia dell'educazione*, pp. 189-213 (p. 195).

²⁹ On *l'Émile* see also Badinter, *L'Amour en plus*, pp. 237-94, C. Covato, *Sapere e pregiudizio: l'educazione delle donne fra '700 e '800* (Rome: Archivio Guido Izzi, 1998), pp. 41-45; C. Covato, 'Educare bambine dell'Ottocento', in S. Ulivieri, ed., *Le bambine nella storia dell'educazione* (Rome: Laterza, 2003), pp. 215-46 (in particular, pp. 220-23); A.M. Banti, *L'onore della Nazione. Identità sessuali e violenza nel nazionalismo europeo dal XVIII secolo alla Grande Guerra* (Turin: Einaudi, 2005), pp. 56-58; A. Rossi-Doria, *Dare forma al silenzio: scritti di storia politica delle donne* (Rome: Viella, 2007), pp. 114-15, 118. For an overview of the debate on women in France, E. Badinter, ed., *Qu'Est-ce qu'une femme? Antoine Léonard Thomas, Diderot, Madame d'Épinay* (Paris: P.O.L, 1989), pp. 9-47.

³⁰ J.J. Rousseau, *Émile ou de l'éducation* (Paris: Garnier, 1951 [1762]), p. 488.

³¹ *Ibid.*, p. 455.

subjuguée'.³² Rousseau believed that women's minds were not strong enough to bear prolonged reflection and high concepts, as 'la femme a plus d'esprit, et l'homme plus de génie'.³³ The search for abstract and speculative truths, principles and axioms of sciences was not suitable for them, as they did not have the ability to concentrate and their mind was mainly practically oriented. This is why their education also had to relate to practicalities.³⁴ Rousseau pointed out that women's minds would never develop and be able to reach the same high level of concentration as men.³⁵

For this reason, it was useless to force women's nature, since the impact of their bodies on their minds could not be avoided, and, as the Bolognese physician Petronio Ignazio Zecchini (1739-1793) maintained in his *Dì geniali della dialettica delle donne ridotto al suo vero principio* (1771),³⁶ they were not able to overcome physical constraints in the same way that men were.³⁷ Because of their 'perpetuo irritamento dell'utero', women were destined to remain 'prigioniere del loro "materiale macchinamento" e non abbandonare mai la femminil debolezza per acquistare la viril costanza e risolutezza'.³⁸ Various writers criticised these theories.³⁹ In his *Lana caprina. Epistola di un licantropo* (1772), for example, Giacomo Casanova (1725-1798), deriving his ideas from René Descartes's 'mind-body dualism',⁴⁰ maintained that women were able to think and reason like men and that their education, and not their uterus, was the cause of their apparent

³² Ibid., p. 446.

³³ Ibid., p. 489.

³⁴ Ibid., pp. 488-89.

³⁵ Ibid., p. 472.

³⁶ On Zecchini, see also Guerici, *La discussione*, pp. 157-59; Messbarger, *The Century of Women*, pp. 66-68; Dalton, *Engendering*, pp. 13-16.

³⁷ P.I. Zecchini, *Dì geniali della dialettica delle donne ridotto al suo vero principio* (Bologna: S. Tommaso D'Aquino, 1771), p. 45.

³⁸ Ibid., p. 45 and p. 10.

³⁹ On the controversy raised after the publication of Zecchini's *Dì geniali della dialettica delle donne*, see also M. Cavazza, *Women's Dialectics, or the Thinking Uterus*, in L. Daston and G. Pomata, eds, *The Faces of Nature in Enlightenment Europe* (Berlin: BWV, 2003), pp. 237-57.

⁴⁰ On this point see A. Rossi-Doria, *Il primo femminismo: 1791-1834* (Milan: UNICOPLI, 1993), pp. 128-29; G. Rodriguez-Pereyra, 'Descartes's Substance Dualism and his Independence Conception of Substance', *Journal of the History of Philosophy*, 46/1 (2008), 69-89. On Descartes, see also Schiebinger, *The Mind has no Sex?*, pp. 170-75.

inferiority.⁴¹

2. 'L'irrequieto desio di piacere agli uomini': women, their world and their education

Even if most scholars were convinced that women lacked a firm stance and were not able to grasp high mental concepts, some also argued that this condition should not be stigmatising. The French physician Pierre Roussel (1742-1802), in his major study *Système physique et moral de la femme* (1775), which was widely known at the end of eighteenth century and later translated into Italian in Naples in 1829,⁴² stated that, on account of their own weaknesses, women were more inclined to empathise with unfortunate people. This natural piety could form the foundation of social virtues. Therefore, Roussel argued that women's qualities, even if they were not as brilliant as the talents of men, were more useful in society.⁴³

The precise nature of these female traits thus continued to be the subject of sustained attention from those who were interested in proving the scientific rationale for women's subordinate status. The French physiologist Pierre Jean George Cabanis (1757-1808), for example, endorsed the idea of the domestic woman. In his works, which were translated into Italian from 1802, he argued that women's 'mollesse' of the 'pulpe cérébrale' allowed their physical movements to be 'plus prompte'.⁴⁴ This 'promptitude' had an impact on their 'sensibilité générale' and made them feel insecure and powerless, and, consequently, women pursued the attention of others in order to fortify their existence by means of those (i.e. the men) whom they considered able to protect them.⁴⁵ This repeated behaviour exacerbated women's already weak nature and caused them to become even weaker and more insecure than they originally were. Cabanis, too, proposed a model with women performing their roles within the household, and men governing the public sphere: this was

⁴¹ G. Casanova, *Lana Caprina: lettre d'un lycanthrope* (Paris: Librairie de la société casanovienne, 1926 [1772]), pp. 29-32.

⁴² P. Roussel, *Sistema fisico e morale della donna seguito dal Sistema fisico e morale dell'uomo e da un frammento sulla sensibilità*, 2 vols (Naples: Manzi, 1829 [1775]), II, p. 65.

⁴³ *Ibid.*, pp. 66-67.

⁴⁴ P.J.G. Cabanis, *Rapports du Physique et du moral de l'homme* (Paris: Fortin, Masson, 1843 [1802]), p. 201.

⁴⁵ *Ibid.*, p. 197.

because women paid great attention to things pertaining to everyday life, that is, small things, while men's minds were destined for the great challenges the public sphere entailed.⁴⁶ Cabanis argued, however, that women's motivation in attending to small domestic matters was their desire to make a positive impression on men, because their world developed entirely in relation to men, on whom they completely depended, even in relation to their own happiness.⁴⁷

Similar ideas had already been expressed by the Ligurian moralist Gaspare Morardo (1738-1817), who, in his *L'arte di conservare e accrescere la bellezza delle donne* (1800-1801), argued that women always had the 'irrequieto desio di piacere agli uomini di attirarsi la loro stima e i loro cuori'. This intense desire to be appreciated by men had always been 'l'energica molla di tutte le donnesche operazioni [...] l'oggetto di tutti i pensieri e di tutte le cure delle donne', and even their imagination, which was ready, vibrant and vivid, led them 'in ogni tempo alle virtù più ardue e alle più strepitose azioni'.⁴⁸ These actions were carried out solely to please and gain the admiration of men since 'questa essendo l'invincibile lor passione'.⁴⁹ For this reason, men considered marriage to be a major achievement for women: through it, they were redeemed, given value and the privilege of being guided throughout life by their husband.⁵⁰

As Luciano Guerci argued, 'giustificare la subordinazione e l'obbedienza della moglie non costituì un particolare problema: la naturale debolezza – di corpo e di spirito – della donna provava che la condizione della moglie non poteva che essere una condizione di inferiorità'.⁵¹ On this point, for example, the abbot Alessandro Maria Tassoni, in his *La religione, dimostrata e difesa* (1805), maintained that nature gave men a manifest superiority over women, 'o si risguardi la robustezza, forza e coraggio, che ordinariamente ha più l'uomo, o si consideri anche la penetrazione, intendimento e giudizio, di cui più generalmente è dotato'.⁵² This meant that a husband and wife had equal rights in marriage,

⁴⁶ Ibid.

⁴⁷ Ibid., p. 215.

⁴⁸ G. Morardo, *L'arte di conservare ed accrescere la bellezza delle donne* (Turin: Morano, 1800-1801), pp. 85-86.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Guerci, *La sposa obbediente*, p. 121.

⁵² A.M. Tassoni, *La religione, dimostrata e difesa* (Naples: Società Editrice, 1854 [1805]), pp. 550-51.

but ‘il marito è superiore, ma la superiorità è di preminenza, di ordine, di governo, non un potere tirannico ed assoluto’.⁵³

A similar line of thought was also developed in a pamphlet published in Milan in 1819 and signed by an ‘avvocato Leopold’, who defined himself ‘il mentore dei mariti’. The author claimed that marriage provided ‘il marito di tutta la matrimoniale autorità, della paterna potenza, e di tutto il reggimento della famiglia: alla moglie conferisce il nome, il domicilio e tutto il patrocinio del marito’.⁵⁴ Since nature provided men ‘di un vigore fisico, di una penetrazione, di una intelligenza, di un iudizio, di una riflessione di molto alla donna superiori’, it followed that women were to be subject to them. He nevertheless conceded that women were to be considered their husbands’ other halves.⁵⁵

These works dealing with marriage and the way women had to behave towards their husbands began to flourish from the eighteenth century. They focused on obedience, and responded to the ‘preoccupazioni legate a fenomeni sociali in cui si scorgeva una crisi dell’obbedienza che minacciava la stabilità delle gerarchie esistenti’.⁵⁶ Women, Luciano Guerci observed, ‘tendevano a sfuggire [...] al controllo del marito [e] non obbedivano più con la stessa docilità e prontezza con cui avevano obbedito in passato’.⁵⁷ Therefore, these writings were also a means to steer unobedient women back on course and help them to correctly understand the role nature had destined them for.

Although women were considered subject to men and all their world was imagined revolving around the impression they wanted to make on them, their sweet feelings, their aptitude to empathise and their natural piety were attributes which would allow them to fit into the role of first educators of their offspring. The continued emphasis on seclusion and small things played an important role in the understanding of women as educators, since young children required the concentrated attention within the home that only women could give.

However, even if most of these features were natural, women needed to work on themselves to become good mothers and educators. In particular, as the Venetian abbot

⁵³ Ibid., p. 551.

⁵⁴ Leopold, *Il mentore dei mariti e delle mogli o sia sposizione dei mezzi di essere felici nel matrimonio in tutte le classi diverse della società* (Milan: Giegler, 1819), p. 15.

⁵⁵ Ibid., pp. 56, 64-65.

⁵⁶ Guerci, *La sposa obbediente*, p.11.

⁵⁷ Ibid., p.12.

Giovanni Bellomo, in his *Saggio sopra il più conveniente sistema di femminile educazione* (1832), maintained, women ‘moralmente forman gli uomini’ and were crucial to obtain domestic happiness.⁵⁸ This meant that if they carefully focused on their deeds, ‘ne viene di conseguenza che a un tempo stesso si migliori il pubblico costume’.⁵⁹

A few years later, this view was also endorsed by the educationalist and linguist Raffaello Lambruschini (1788-1873), who believed that motherhood and the ability to take care of children was a skill that women naturally had, but some training was needed. As ‘fanciulli accorti e ardimentosi [...] scuotendo un giogo sì lieve signoreggiano le loro timide educatrici’, women should get a ‘ragionata educazione dell’infanzia’.⁶⁰ Later, the education of young boys was to be entrusted to male educators.⁶¹ Lambruschini also focused on the distinction between ‘educazione’, which was ‘educazione del cuore, educazione della mano’, and, therefore, embedded with moral values, and ‘istruzione’, which had an intellectual connotation.⁶² In his *Guida dell’Educatore*, Lambruschini criticised women who ‘o sono poco istruite [...] o pretendono d’essere letterate’,⁶³ and in reply to one of his readers, a woman who pointed out that Lambruschini wanted to almost remove ‘il titolo e le facoltà di madre a una donna che si occupi dello studio delle lettere’, he explained that he blamed only those women who claimed to be cultured and neglected their duties to dedicate themselves to the study of literature.⁶⁴ Lambruschini, like the great majority of nineteenth-century moralists and theorists, believed that women’s primary duties were being a mother and a good wife, therefore studying and gaining some culture were to be considered only a secondary goal. A woman within the family was in the place where God wanted her to be, and, from there, she could do her best for society, because she could do the best for her family, both as a wife and mother. Mothers should be the first educators of children and their behaviour was crucial as it was considered ‘educazione indiretta’.⁶⁵ If men had

⁵⁸ G. Bellomo, *Saggio sopra il più conveniente sistema di femminile educazione* (Venice: Tasso, 1832), p. 30.

⁵⁹ Ibid.

⁶⁰ R. Lambruschini, *Sull’utilità della cooperazione delle donne benenate al buon andamento delle scuole infantili per il popolo* (Milan: Stella, 1834), p. 8.

⁶¹ Ibid.

⁶² Ibid., p. 13. On the distinction between ‘educazione’ and ‘istruzione’ see also Sanson, “La madre educatrice”, p. 52. See also Covato, ‘Educata a non istruirsi: un’introduzione al problema’, pp. 25-45.

⁶³ *Guida dell’educatore*, 1 (1836), 38.

⁶⁴ *Guida dell’educatore*, 2 (1836), 63-65.

⁶⁵ *Guida dell’educatore*, 3 (1836), 84-85.

‘robustezza ed ardimento’, women easily outmatched them in virtues naturally carried in their hearts, such as love and patience.⁶⁶ Instead, men, who had the strength to bear ‘i patimenti e le fatiche’, were not able to stand the boredom of looking after babies, as ‘solo l’inesauribile capacità di abnegare sé stessa, di cui è dotata la figlia del dolore, resiste a prove sì lunghe e sì difficili’.⁶⁷

Lambruschini argued that ‘l’incremento della civiltà europea, la piega che han presa i nostri costumi’ allowed women to go beyond the role of mere guardians of household order and welfare, and to acquire an indirect social power. This power was to be valued and directed to enable women to ‘conspire’ ‘con bell’armonia all’ordine e al lustro della città’.⁶⁸ Conversely, if ‘la dimenticheremo, l’abbandoneremo a sé medesima [...] ella sarà una forza perturbatrice, un principio di collisione, di scompiglio, di morte’.⁶⁹ The root of this power was to be found in a sort of inspiration and influence that women could put in place to improve society and its values.

3. Women and motherhood

Alongside treatises, the journalism of the time, too, promoted the ideal virtues of the good woman, mother and wife.⁷⁰ Women’s education and behaviour was to be taken into account even before the birth of their children. In a journal addressing women, *Studii per le donne italiane*, published in Milan from 1837 to 1838, great attention was paid to values such as morality, sacrifice and modesty. In one of its articles, for example, the Milanese writer and journalist Giovan Battista De Cristoforis prescribed that mothers’ thoughts and deeds were to be calm and sober, as ‘pensieri ed opere non concordanti col dovere [...] sono infausti preludi alla sanità del nascituro’.⁷¹

Later, as children became older, the education of males and females should necessarily be diversified. As highlighted by the French theorist Jeanne Louise Henriette

⁶⁶ Lambruschini, *Sull’utilità della cooperazione*, p. 6.

⁶⁷ *Ibid.*, p. 7.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*, p. 12.

⁷⁰ See Ascenzi, *Il Plutarco delle donne*, pp. 11-50.

⁷¹ *Studii per le donne italiane*, 1 (1837), 36.

Genet, known as Madame Campan, in her treatise *De l'Education*, translated into Italian in 1827 as *Dell'educazione*, a boy should be educated by his mother only until the age of seven. Since women, due to their temperament, were not able to stand challenging situations, after that age, 'l'austerità degli studj, la violenza dei giuochi, quella degli esercizi, tutto quello insomma che far si deve per l'educazione degli uomini, per dare una forte tempra al loro animo, troppo urterebbe la sensibilità squisita d'una madre'.⁷²

The different role and status that men and women had in society meant that the destinies of males and females changed at the time when their education needed to be differentiated. Girls were to be well-educated for their pre-established duties as good wives and mothers: good results were a source of pride for their whole family, even after their marriage.⁷³ Girls' education had to be carried out within the household and was primarily entrusted to mothers, who were required to attentively watch over them.⁷⁴ Mothers were encouraged to consider every aspect of life, and not disregard the importance of entertainment and making friends. In the essay *La buona madre*, translated into Italian in 1846, the French Jesuit Firmin Pouget related the story of three 'wise' mothers, who wanted to 'preservare le loro figlie dal contagio del secolo e dalle cattive compagnie, senza condannarle alla solitudine ed all'isolamento'.⁷⁵ These mothers, together with their young daughters, often met at one of their houses, but only 'dopo i divini ufficii [e] dopo aver compiti i domestici lor doveri'.⁷⁶ Pouget stressed the importance of their mothers' presence, which never made them feel under close surveillance but, instead, they felt comforted. He regarded these girls as an example of total obedience and abnegation, to be praised and followed by every woman who wanted to conveniently fit in the place that nature and society had assigned her.⁷⁷

If educationalists and men of letters agreed that an educated woman would be a better mother, particularly to her daughter,⁷⁸ they also shared the idea that her education was

⁷² Madame Campan, *Dell'educazione*, 2 vols (Milan: Rezzi, 1827), I, p. 86.

⁷³ Pancera, *Figlie del Settecento*, p. 195.

⁷⁴ Guerci, *La sposa obbediente*, pp. 69-74.

⁷⁵ F. Pouget, *La buona madre, o sia vita di Teresa di Lamourous fondatrice e prima superiora della casa di misericordia di Bordeaux* (Milan: Boniardi-Pogliani, 1846), p. 11.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*, pp. 11-13.

⁷⁸ Badinter, *L'Amour en plus*, pp. 252-53.

to be limited, because, as Anna Ascenzi observed, ‘la donna colta era destinata a rimanere una figura potenzialmente eversiva, destabilizzante, e comunque scomoda’.⁷⁹ The Piedmontese man of letters and politician Cesare Balbo (1789-1853) believed that, since women carried out their roles in the domestic realm, because ‘il regno delle donne è in casa’,⁸⁰ they would benefit from an education focused on a secluded life, on loneliness, quiet, and activities related to managing a house.⁸¹ This kind of education would reflect their future lives. Men, on the other hand, would benefit from a multitude of companions and a certain degree of roughness, which would be the image of the world in which they would live.⁸²

Balbo, strongly influenced by Rousseau and Cabanis, argued that women’s main role was to comfort men. Along with activities related to their domestic realm, he conceded that women could be further educated, they could ‘abbellire l’ingegno, che è la parte più amabile di esse’, but they should never demonstrate that they were very well educated, and everything they said had to appear spontaneous, as a different, but always simple, expression of their affections.⁸³ Women’s education should be aimed, above all, to enable them to provide good company for men, because a woman’s charm ‘sta nella sua dipendenza; la sua forza, nella sua debolezza; la sua potenza, nel suo diritto di aver protezione’.⁸⁴ He suggested not intellectually stimulating women too much, because many activities ‘se non noccono al dovere, noccono alla grazia femminile, che sta sopra ogni cosa nella moderazione, nella dolcezza, nella tranquillità’.⁸⁵ Balbo deplored the ‘vice’ of exaggerating women’s education and industriousness, and claimed that ‘quelle professore di matematica, di lingua greca, di legale, e peggio di chirurgia, che furono già all’Università di Bologna, mi paiono più mostri che miracoli’.⁸⁶

⁷⁹ Ascenzi, *Il Plutarco delle donne*, p. 48.

⁸⁰ C. Balbo, *Pensieri ed esempi: opera postuma; con l’aggiunta dei Dialoghi di un maestro di scuola pure inediti* (Florence: Le Monnier, 1856), p. 156.

⁸¹ On this point see also A.M. Rao, ‘Il sapere velato. L’educazione delle donne nel dibattito italiano di fine Settecento’, in A. Milano, ed., *Misoginia: la donna vista e malvista nella cultura occidentale* (Rome: Dehoniane, 1992), pp. 243-310.

⁸² Balbo, *Pensieri ed esempi*, pp. 156-58.

⁸³ *Ibid.*, pp. 159-60.

⁸⁴ *Ibid.*, p. 316.

⁸⁵ *Ibid.*, p. 316.

⁸⁶ *Ibid.*, p. 159.

The man of letters and educationalist Niccolò Tommaseo (1802-1874) had a similar vision of women's roles in society and stressed that their life was sacred in two major functions, obedience and love.⁸⁷ Their education did not need to go further than giving them the possibility to say 'con proprietà e con chiarezza parte di quel che sentono in cuore'; and, if they would like to improve themselves a little more, they could learn 'a fare interi i concetti proprii, non a rubacchiare gli altrui, o a ripeterli in fiacchiti e rimpiccoliti'.⁸⁸ Tommaseo, similarly to many other theorists of his time, was convinced that women were not born to be learned,⁸⁹ and pointed out that 'real education' started when the educators' role finished: for men this was at the time of their graduation or when they began a job, while for women it was at the time of marriage.⁹⁰ Culture acquired by women was understood as a corruption of their spirit to the extent that he added that in a learned woman it was even difficult to find true love and generosity. Conversely, a woman, who would read 'libri semplici di religione, di morale di storia [...] educerà il proprio ingegno a fin d'educare i figli proprii, o, se di proprii non n'ha, quelli de' congiunti e de' poveri', and, by doing so, she would fulfill herself.⁹¹ To this kind of woman, studies would not be 'balocco o pericolo, ma dovere e salvezza'.⁹² Moreover, when literature, gallantry, politics or disbelief extinguished in the female soul the flame that created candid words and sudden feelings, a woman 'per dotta e arguta che sia' would become something 'di schifoso da mettere ribrezzo e pietà: peggio che cadavere, mostro'.⁹³

Learned women had 'misunderstood' their role in society. Acquiring a high degree of education was pointless for them and they were not considered able to reach the same level as men in terms of culture and knowledge. Along with entering an unnatural condition, if they diverted from the role society and nature assigned them, women would even run the risk of harming their health. Marriage and, especially, motherhood was their 'natural'

⁸⁷ N. Tommaseo, *La donna: scritti varii* (Milan: Agnelli, 1872 [1868]), p. 256.

⁸⁸ *Ibid.*, p. 257.

⁸⁹ *Ibid.*, p. 259.

⁹⁰ N. Tommaseo, *Delle nuove speranze d'Italia, presentimenti da un'opera di Niccolò Tommaseo* (Florence: Le Monnier, 1848), p. 95.

⁹¹ Tommaseo, *La donna*, p. 259.

⁹² *Ibid.*, p. 260.

⁹³ N. Tommaseo, *Dell'educazione. Osservazioni e saggi pratici* (Venice: Andruzzi, 1842), p. 19; Tommaseo, *La donna*, p. 257.

condition, and this status was the only one that permitted them to enjoy good health and to reach old age. The French doctor Alexis Delacoux (1792-1860), in his *Hygiène des femmes, ou Préceptes de santé à leur usage dans la vie privée* (1829), translated into Italian in the following year with the title *Igiene delle donne, ossia Precetti di salute all'uso loro nella vita privata*, argued that no institution was more edifying to women than marriage. Therefore, from the 'duplice condizione di sposa e di madre deriva una sequela d'obbligazioni' enough to fill every moment of women's lives. Every job that could be done outside women's domestic realm, that is, the home, was a 'ver[a] depravazion[e] moral[e]; imperocché la donna non è chiamata a condurre l'aratro, ed a tenere lo scettro delle nazioni, più che l'uomo non sia fatto per tener l'ago ed il fuso'.⁹⁴ As women were 'dotate di mente fina e dilicata', and could learn easily, they could better profit from observing and following examples than from hard studies.⁹⁵ He maintained that evidence demonstrated that the study of geography, history, and languages was more harmful than beneficial, and society would then suffer a number of premature losses: 'Quante giovinette, quante donne giovani succumbono, sia a malattie di petto, a affezioni cerebrali qui pressoché endemiche'.⁹⁶

Education for women was thus to be limited to simply enabling them to be aware of their duties. In the eyes of these theorists, women whose education had gone too far would not accomplish any long-lasting achievement.⁹⁷ In *Un curato di campagna* mentioned earlier, Carlo Ravizza gave some practical examples of the various risks that women who devoted too much time to their education might incur. The country priest related the cases of Gaetana Agnesi (1718-1799), the renowned Milanese mathematician and philosopher, and Maria Pellegrina Amoretti (1756-1787), from Oneglia, near Genoa, the first woman to earn a degree in 'ragion civile', in Pavia in 1777:⁹⁸ they both studied hard but this deeply affected their lives and brought them suffering or premature death. Gaetana Agnesi, 'dopo

⁹⁴ A. Delacoux, *Igiene delle donne, ossia Precetti di salute all'uso loro nella vita privata traduzione dal francese di N.P.* (Milan: Pirota, 1830), p. 125.

⁹⁵ *Ibid.*, p. 128.

⁹⁶ *Ibid.*, pp. 116-17.

⁹⁷ Guerci, *La discussione*, pp. 170-72.

⁹⁸ On the life of Agnesi see G. Tilche, *Maria Gaetana Agnesi* (Milan: Rizzoli, 1984); M. Mazzotti, *The World of Maria Gaetana Agnesi, Mathematician of God* (Baltimore: The Johns Hopkins University Press, 2007). On Amoretti, see G. Zaffignani, *L'università e la ragazza: la verità sulla prima laurea in legge ottenuta in Europa da una donna Maria Pellegrina Amoretti, Pavia, 1777* (Acirerale: Bonanno, 2010).

poch'anni di festeggiamento e di gloria, fu vista tutt'a un tratto comparire a Milano trista e dimessamente vestita',⁹⁹ while the fate of Maria Pellegrina Amoretti had been even worse. He described in detail the story of Amoretti as a prodigious case, who went to Pavia to take two very difficult exams at the faculty of law: ten professors, 'increduli della sua scienza e disdegnosi d'un femminile addottoramento, le proposero le più sottili questioni, finché, meravigliati, unanimamente la dichiararono degnissima d'approvazione'.¹⁰⁰ Amoretti's performance was certainly deemed to be 'unnatural' for a woman, and all these efforts of mind compromised her weak health.¹⁰¹ Moreover, these triumphs 'le pesavano sul cuore quasi un rimorso', and after a few years she died. Ravizza's priest explained that the task of women was to educate and do charitable acts, and whoever turned their talents to other tasks denied humankind many occasions for happiness and improvement.¹⁰² Ravizza's country-priest claimed that women should not look to improve their dignity with great achievements and education, because Christianity already redeemed and ennobled them through the indissolubility of marriage and monogamy.¹⁰³

As Luciano Guerci explained, 'gli scrittori devoti [dicevano che] Dio medesimo aveva assegnato alla donna un ruolo subalterno',¹⁰⁴ and entrusted men with a sort of 'délégation des pouvoirs de Dieu'.¹⁰⁵ For example, Giacomo Polatti, a priest from Vicenza, in his *Della protezione accordata alla donna dal cristianesimo* (1844), a pamphlet written for the marriage of one of his parishioner, the noble Ottaviano Mocenigo from Venice, argued that in places where 'è impedita o distolta la salutare influenza del Cristianesimo', women fatally fell under the yoke of slavery, and soon entered the dirty world of licentiousness.¹⁰⁶ Marriage, particularly a Christian marriage, was a considerable benefit for women, and they should be content with this achievement.

⁹⁹ Ravizza, *Un curato di campagna*, p. 226.

¹⁰⁰ Ibid., p. 227.

¹⁰¹ Ibid., p. 229.

¹⁰² Ibid., p. 230.

¹⁰³ Ibid., pp. 230-31. For the role of women as described by Christian doctrine, see Maclean, *The Renaissance Notion of Woman*, pp. 6-27, in particular pp. 23-24; see also Messbarger and Findlen, eds, *The Contest for Knowledge*, pp. xv-xvi.

¹⁰⁴ Guerci, *La sposa obbediente*, p. 131.

¹⁰⁵ Badinter, *L'Amour en plus*, p. 24, and also pp. 17-19 and pp. 21-27. See also E. Badinter, *L'Un est l'autre: des relations entre hommes et femmes* (Paris: Jacob, 1992 [1986]), pp. 191-240.

¹⁰⁶ G. Polatti, *Della protezione accordata alla donna dal cristianesimo* (Vicenza: Paroni, 1844), p. 26.

The link between women and Christianity was particularly emphasised in the nineteenth century. In particular, the Catholic Church acknowledged the importance of ‘rinvigorire il sentimento religioso femminile e di far maturare nella donna cattolica una più salda consapevolezza del proprio ruolo e dei propri compiti familiari’.¹⁰⁷ To this end, ‘il tipo di formazione degli educandati di antico regime non era più sufficiente e adatta alla condizione mutata dei tempi’.¹⁰⁸ Alongside improving the quality of education given by those schools run by nuns, a number of new ‘educandati’ were founded to provide education to girls from the middle and upper classes.¹⁰⁹ These ‘educandati’ also began to be led by laywomen, and were destined to prepare girls for their future domestic duties and to be good wives and mothers, educated to understand their role within the family, and society more broadly, through ‘l’interiorizzazione dei valori proposti come esemplari’.¹¹⁰

Moralists repeatedly stressed the importance of domesticity. Women’s values were primarily to be put in practice into the private sphere, where they had the crucial task of running their household. The treatise by the French abbot Frédéric-Edouard Chassay, *I doveri delle donne nella famiglia* (1852), was translated by the Florentine poet Isabella Rossi Gabardi Brocchi, who considered this work ‘piena di luminose verità, di profonda conoscenza del mondo e del cuore femminile’.¹¹¹ Chassay warned women that ‘una casa mal diretta allontana tutti coloro che dovrebbero compiacersene’, including their husbands who would certainly look for ‘costose distrazioni’ elsewhere.¹¹² Women needed help in correctly assessing the importance of their duties, because they were not intelligent enough

¹⁰⁷ Ascenzi, *Il Plutarco delle donne*, p. 31.

¹⁰⁸ *Ibid.*, p. 32.

¹⁰⁹ Bibliography on women’s education in the Ottocento is vast. See, for example, Covato and Leuzzi, eds, *E l’uomo educò la donna*; S. Franchini, *Élites ed educazione femminile nell’Italia dell’Ottocento: l’Istituto della SS. Annunziata di Firenze* (Florence: Olschki, 1993); S. Ulivieri, *Educare al femminile* (Pisa: ETS, 1995), S. Soldani, ‘La fortunosa conquista di un’istruzione secondaria da parte delle giovani italiane’, in E. Bruni et al, eds, *La donna in Italia: 1848-1914: unite per unire* (Cinisello Balsamo: Silvana, 2011), pp. 15-26 (pp. 15-16). See also the case of the schools of ‘mutuo insegnamento’, created to teach literacy to lower classes, in Soresina, *L’età della Restaurazione*, pp. 98-99.

¹¹⁰ Franchini, *Élites ed educazione femminile nell’Italia dell’Ottocento*, pp. 2-3 and 58. See also P. Ariès, *L’Enfant et la vie familiale sous l’Ancien Régime* (Paris: Plon, 1960), p. 435; Ulivieri, *Educare al femminile* (Pisa: ETS, 1995), p. 125.

¹¹¹ F.E. Chassay, *I doveri delle donne nella famiglia* (Milan: Volpato, 1856), p. ii.

¹¹² *Ibid.*, p. 82.

to do it by themselves. Indeed, women's nature was 'più viva che attiva, più agitata che intraprendente, e credono d'aver mosso delle montagne quando hanno mutato di luogo qualche frammento di paglia'.¹¹³

Many female moralists themselves complied with this commonly accepted prejudice of female inferiority, and also wrote essays and books to explain how to tackle their condition. The Bolognese Anna Pepoli Sampieri (1783-1844), for example, was 'intimamente persuasa che le donne non siano destinate a partecipare dei pubblici affari', and, therefore, believed that their education had to focus on and be limited to the role and duties nature had created them for.¹¹⁴ Obedient angels of the hearth, they were defined by their domestic duties and depended on their husbands, who, in turn, were required to treat 'dolcemente le mogli, e loro comandino con buon modo'.¹¹⁵ This hierarchy within the family was the natural order, given that men were 'in intelligenza e in altezza di senno [...] di lungo spazio superiori' to women.¹¹⁶ For this reason, sons and daughters were to be educated in different ways, and women could provide a crucial contribution in this regard. Pepoli Sampieri endorsed the ideas already proposed by male theorists and educationalists according to which women's nature was not adequate to educate sons for their adult roles in society. They could be in charge of the education of sons in their early years, but not beyond.¹¹⁷ This was because

lo spirito loro è bene acconcio ad acquistare molte nozioni di cose speciali; ch'esse mirabilmente riescono nello stile epistolare, se sono nel raccontare avvenimenti o novelle, nel descrivere usi e costumi, di leggiadra vivacità spirano tutte le osservazioni loro sugli oggetti particolari, ma che piuttosto si fermano agli effetti che alla ricerca delle cause. Dal che nasce che nelle scienze e nelle arti di rado sono prime, essendo cosa manifestamente provata che, quante volte trattasi di considerazione di sottili ragionamenti di grandi combinazioni, dove sia necessità di stabilire principii o leggi, le donne sono sempre state trovate inferiori agli uomini.¹¹⁸

¹¹³ Ibid., p. 128.

¹¹⁴ A. Pepoli Sampieri, *La donna saggia ed amabile: libri tre* (Capolago: Elvetica, 1838), p. 117.

¹¹⁵ Ibid., p. 61.

¹¹⁶ Ibid.

¹¹⁷ Ibid., p. 113.

¹¹⁸ Ibid., p. 114.

On the contrary, as far as daughters were concerned, mothers could and should be in charge of their education until they married, avoiding, first of all, anything that would ‘ispirare alla sua figliola amore per le cose frivole e dispendiose’.¹¹⁹

The typical female virtues such as sweetness and meekness were widely transposed and reposed by women,¹²⁰ and shaped the idea of model women and wives, who were above all submissive and obedient. As explained by the Turinese writer Giulia Molino-Colombini (1812-1879) in her *Sulla educazione della donna*, women’s lives had to lean on men’s sturdiness ‘come viti al pioppo’, because they were ‘collocate sulla terra per essere guidate, anziché per reggere altrui’.¹²¹ Despite arguing that women were created to depend on men, Molino-Colombini valued the importance of education, mainly as a means to ‘recare rimedio alla leggerezza femminile’.¹²² In addition, if studying the sciences would help women’s minds to acquire ‘nerbo e dirittura’, ‘l’educazione del cuore e della mente’ was pivotal.¹²³ Moreover, when providing girls with education, mothers had to lead by example.

The role of mothers was also emphasised by Caterina Franceschi Ferrucci (1803-1887), who, in her *Degli studii delle donne* (1853), stressed that a mother, who was worthy of that name, ‘non ommetterà cosa alcuna per conservare l’ordine stabilito dalla natura, e la misura prescritta dalla religione e dalla morale, nella mente e nel cuore delle sue figlie’.¹²⁴ Despite giving importance to education, complying with the role established by nature was the focus to keep in mind when preparing a girl for adulthood. In a letter to Raffaello Lambruschini dated 1871 and included in her *Epistolario* (published posthumously in Turin in 1910), Franceschi Ferrucci reasserted this idea by arguing that

Stoltissima [è] l’opinione di quelli, i quali vorrebbero che le donne avessero in comune cogli uomini gli uffici, e gli onori: sicché in luogo di attendere ai casalinghi lavori, e ad allevare i loro figlioli perdessero in gare ambiziose la pace dell’animo, la verecondia, e la dignità della vita.¹²⁵

¹¹⁹ Ibid., pp. 113-14.

¹²⁰ Ascenzi, *Il Plutarco delle donne*, p. 27.

¹²¹ G. Molino-Colombini, *Sulla educazione della donna: pensieri* (Turin: Fory and Dalmazzo, 1851), p. 10.

¹²² Ibid., p. 110.

¹²³ Ibid., p. 91 and p. 110.

¹²⁴ C. Franceschi Ferrucci, *Degli studii delle donne* (Turin: Pomba, 1853), p. 13.

¹²⁵ C. Franceschi Ferrucci, *Epistolario di Caterina Franceschi Ferrucci: edito ora la prima volta, con lettere di scrittori illustri a lei* (Reggio Emilia: Guidetti, 1910), p. 358.

Women had to be content with carrying out ‘casalinghi lavori’ and going beyond this natural order would also mean that their lives would lose dignity. Women, as Carmela Covato observes, ‘sono state educate a non istruirsi, ma ad apprendere rigide regole di comportamento finalizzate ad interiorizzare un destino quasi sempre esclusivamente domestico’.¹²⁶ This is why Franceschi Ferrucci explained that a woman, when looking at her son’s cradle, ‘già vede e onora l’uomo’.¹²⁷ Their different destiny and the hierarchical set-up of nineteenth-century society is clear from her son’s very first days: in this context, mothers could do their best to provide their sons with care, honour and respect, a role to be fulfilled within the household, in the domestic realm, in which they could also appropriately express their subjectivities enhanced through a good education.

This view of the ‘domestic woman’, whose world revolved entirely around her husband and her family, was also shared by the Milanese educationalist Luisa Amalia Paladini (1810-1872). In her *Manuale per le giovinette italiane* (1851), she explained how to become a good wife and mother, and, therefore, a good and fulfilled woman. Despite considering women as companions to men, Paladini stressed that their main task was to ensure that ‘lo stanco padre di famiglia trovi in casa sua tutto ordinato, tutto piacevole all’occhio, tutto ridente [e] che la casa sia per esso un tempio di sicuro riposo e di affetti dolcissimi che lo ristorino delle sue tante cure e fatiche’.¹²⁸ A woman was allowed to gain some culture, as this ‘anziché distoglierla dall’adempimento di un tal dovere glielo rende più facile ed aggradevole’ and would enable her to be considered a reliable companion by her husband, who could then even ask her opinion ‘ne’ casi dubbi e difficili’.¹²⁹ Women could also acquire some rough knowledge of the law, as this would help them to better educate their children to comply with it.¹³⁰ On the contrary, studying sciences was neither necessary nor useful to women. She allowed that studying some botany or natural history could help, but the deep study of one science was to be avoided, as it would hinder them

¹²⁶ C. Covato, ‘Istruzione femminile e metamorfosi dell’identità in Italia fra Ottocento e Novecento’, in Sanson and Luciola, eds, *Conduct Literature for and about Women in Italy*, pp. 283-99 (p. 283).

¹²⁷ Franceschi Ferrucci, *Degli studii delle donne*, p. 10.

¹²⁸ L.A. Paladini, *Manuale per le giovinette italiane* (Florence: Le Monnier, 1866 [1851]), p. 93.

¹²⁹ *Ibid.*, p. 94.

¹³⁰ *Ibid.*

from carrying out their duties.¹³¹ In Paladini's view too, women were, first of all, mothers and wives: their education had to be functional to the exterior and superior tasks of men.

3. Jurists on women's status

Following the path of physicians and moralists, jurists, too, endorsed the idea that women were inferior to men. The views of jurists in pre-Unification Italy (and beyond) continued to reflect the same misogynistic views and prejudices that were expounded in the discourses of moralists and men of letters. Alongside their general *infirmitas* and *levitas animi*, women would be misled from correctly assessing the value of objects because of their *imbecillitas*. For this reason, they were deemed to lack the ability to understand and conclude a legal transaction and were to be prevented from undertaking any contract. In particular, because of these characteristics that were assumed to be peculiar to women, they were imagined to be wasting all their money on superfluous things. As we shall see in the next chapter, in almost the entire Italian peninsula, women could not administer their goods and this was considered a sort of protection for both women and society.

In this regard, the Pisan criminalist Giovanni Carmignani, in his *Teoria delle leggi della sicurezza sociale* (1831), observed that 'la tutela perpetua, alla quale in altre età fu sottoposta la donna può essere considerata come una guarentigia pubblica contro le offese, di cui la debolezza del sesso cedendo alle malvage altrui suggestioni può essere ragione'.¹³² Women needed to be protected against scams, because their softer and weaker spinal brain, the *cerebralis medulla*,¹³³ hindered them from developing ideas and left them some steps behind men in achieving full maturity.¹³⁴ Women also lacked the firm mind needed to understand civil law and to undertake obligations.¹³⁵

Contracts by women were valid only with the approval of a male relative and a judge. It was a sort of 'guarentigia pubblica', because, according to the Neapolitan jurist Domenicantonio Galdi, 'ordinariamente gli uomini sono più capaci delle donne di ben

¹³¹ Ibid., p. 118.

¹³² Carmignani, *Teoria delle leggi della sicurezza sociale*, III, pp. 311-12.

¹³³ G. Carmignani, *Juris criminalis elementa* (Pisa: Nistri, 1833 [1808]), p. 44.

¹³⁴ Carmignani, *Teoria delle leggi della sicurezza sociale*, II, p. 172.

¹³⁵ Carmignani, *Juris criminalis elementa*, p. 44.

governare gli affari particolari'.¹³⁶

These ideas were taken into account by the law of many states of the Italian peninsula, where, as we shall see in Chapter 3, several legal norms limited women's administration of their assets. In areas such as the Kingdom of Lombardy-Venetia, women did not need any authorisation, and particularly not the marital one, and this led several voices to criticise what was considered a real hazard for a family's assets and public order. Scholars and jurists broadly discussed whether women's minds were able to properly administer their patrimony and compared their legal status emerging from this code with others in force in the Italian peninsula. The key point in the debate was again the possibility that women might spend their whole patrimony on frivolities. The jurist Giovanni Carcano, for example, in his commentary to the Austrian code in force in Lombardy-Venetia, described its results with these words: 'padre senza maestà, madre senza onore, donne senza freno', because, by enforcing 'una comune misura, l'individuo, la persona, tutti li eguaglia, e quindi tutti li sposta e li abbassa'.¹³⁷ Thanks to this code, a woman

commercia, compera, vende, giuoca alla borsa, s'impegna nel cambio, dona agli amanti, riceve il prezzo dell'adulterio, fomenta gli scialaqui e le insubordinazioni dei figli, disperde il proprio patrimonio, e ciò tutto senza che sappia, senza che abbia diritto di divieto il marito.¹³⁸

Carcano, as well as other jurists, did not consider the possibility that women could appropriately use their money, but rather focused on the fact that the lack of marital authorisation would unavoidably lead to misuse.

Other than being convinced that women's objective was to spend their patrimony on whims, jurists also insisted on the need to take into consideration their morality. In his posthumous work *Trattati inediti di giurisprudenza* (1854), the Tuscan jurist Francesco Forti believed that 'la frivolezza ed il puttanesimo del sesso' were such that, in the Italian peninsula, no wise legislator would ever provide a regime of common property of goods

¹³⁶ D. Galdi, *Enciclopedia legale, ovvero Repertorio alfabetico di legislazione, giurisprudenza e dottrina in materia di dritto civile, commerciale, criminale, amministrativo, canonico, pubblico, naturale e delle genti*, 5 vols (Naples: Marghieri, 1864-1868), II, p. 757.

¹³⁷ Carcano, *Il codice civile austriaco*, p. 29.

¹³⁸ *Ibid.*, p. 28.

between spouses.¹³⁹ Forti endorsed the ‘Quintus Mucius presumption’ according to which all assets belonging to women had to be assumed to have been purchased with their husbands’s money, in order to ‘escludere il sospetto che se li sieno guadagnati facendo commercio del proprio corpo’.¹⁴⁰ This presumption was deemed to guarantee women’s reputation and to avoid any inquiry over the origin of money.

Only according to very few jurists could women be favoured by the alleged unstable nature of their minds. Women’s nature and their difficulties in understanding the law were to be taken into consideration when indicting them for a crime. In this regard, Carmignani, mentioned earlier, assumed that it was almost impossible to imagine in the heart of a woman the hateful force necessary to commit a crime.¹⁴¹ However, if this happened, women’s minds and their inconstant feelings were to be considered, and those who committed crimes had to be judged in a milder way than men. This was especially aimed at not exacerbating the contradiction with civil laws.¹⁴² The same thought was expressed by Antonio Stella, a Roman lawyer, who, in an article published in the journal *Archivio Giuridico* in 1869,¹⁴³ explained that two ‘anomalies’ persisted in women: a perpetual childhood and a permanent infirmity. He argued that women’s *imbecillitas* made them easily change and go from being enthusiastic to disheartened; these feelings combined with menstruation, pregnancy and childbirth were alterations that disrupted the normal state of life. Therefore, their childish spirits and the great vitality and instability of their feelings did not allow criminal law to persist in women’s memories. In particular, Stella pointed out that they obeyed the law without understanding its essence and this was to be considered.¹⁴⁴

Carmignani and Stella were rare exceptions in a context in which the great majority thought that women should be debarred from undertaking any act of civil life, but that there

¹³⁹ F. Forti, *Trattati inediti di giurisprudenza* (Florence: Viessieux, 1854), pp. 456-57.

¹⁴⁰ *Ibid.*, pp. 456-57. The Quintus Mucius presumption was named after the the Roman jurist Quintus Mucius Scaevola (140 c. BC – 82 c. BC), who introduced it into the legal framework. See Digest 24.1.51. It was meant to avoid suspicion that women could have bought the goods through an illegal trade. See also F. Carillo, *Dizionario universale ossia repertorio ragionato di giurisprudenza e quistioni di diritto*, 14 vols (Venice: Antonelli, 1836), IV, pp. 1035-36.

¹⁴¹ Carmignani, *Teoria delle leggi della sicurezza sociale*, II, p. 175.

¹⁴² *Ibid.*, pp. 175-76.

¹⁴³ L. Stella, ‘Alcune considerazioni sulla minore responsabilità penale della donna’, *Archivio Giuridico*, 4 (1869), 76-83.

¹⁴⁴ *Ibid.*, p. 79.

was no general reason that could justify or excuse a woman committing crimes. For example, Pellegrino Rossi, a jurist and diplomat who served as prime minister of the Papal States in 1848, in his *Trattato di diritto penale* (1832), wrote that there were crimes, or law infringements, that were more excusable if committed by women, such as political crimes, the importance and immorality of which could be unknown to a woman. However, he explained that it was impossible to establish general rules in this regard, and women were to be treated the same as men with regard to crimes.¹⁴⁵ Lawmakers also shared this point of view. For example, the *Regolamento sui delitti e sulle pene* (1832), the criminal code of the Papal States, explicitly reported that ‘non dispensa dalla pena né la condizione né il sesso’.¹⁴⁶ Nineteenth-century women were not deemed to understand the law, but they were subjected to it as men were.

The debate on women’s legal status that took place in the Ottocento could be attributed to the fast changes that took place in the Italian legal framework. As we shall see, some norms, especially those included in the Napoleonic code stating that men and women had equal inheritance rights, were a major challenge to eighteenth- and nineteenth-century society and its legal system. The many works regarding women’s legal status could be interpreted as a way to make public people’s concerns, and to resist changes that the legal system did and would undergo.

Some theorists maintained that women were to be given greater importance in society, even though still under the guidance of men. Gian Domenico Romagnosi (1761-1835), a jurist and philosopher from the Duchy of Parma, stressed that even if ‘le leggi vogliono favorire l’equo trattamento delle donne, esso non deve giungere al punto d’intieramente abbandonarle a loro stesse’.¹⁴⁷ He reported the experience of ‘viaggiatori filosofi, che hanno attentamente esaminata la parte morale delle popolazioni del globo’,¹⁴⁸ and drew on the general opinion that the heart was the organ that prevailed in women, whereas in men it was the mind that prevailed. In his *Istituzioni di civile filosofia ossia di Giurisprudenza Teorica* (1825), he pointed out that, both for their own best interests and for the preservation of order within families, women should be given only a ‘libertà protetta e

¹⁴⁵ P. Rossi, *Trattato di diritto penale* (Milan: Borroni and Scotti, 1832), p. 244.

¹⁴⁶ Art. 2, *Regolamento sui delitti e sulle pene* ([n. p.]: [n. pub.], 1832), p. 3.

¹⁴⁷ G.D. Romagnosi, *Opere, Istituzioni di civile filosofia ossia di giurisprudenza teorica*, 4 vols (Florence: Piatti, 1839), IV, p. 436.

¹⁴⁸ Romagnosi, *Opere*, III, p. 1460.

specialmente sostenuta dall'autorità sociale'.¹⁴⁹ He compared women to a 'fanciullo ignaro dei pericoli o imprudente', for whom economic freedom would be a 'barbarie palliata'.¹⁵⁰ Indeed, 'la natura ha disposto che il consiglio sia unito alla forza, e l'affetto alla debolezza'.¹⁵¹ This would explain the hierarchical structure of marriage which, as the Roman jurist Filippo Maria Renazzi (1747-1808) claimed, was 'divina legem sancitum' (sanctioned by divine law).¹⁵²

If theorists and jurists stressed that women were important, they also highlighted and insisted on a vague concept of importance in society without any further specification. This point could also be inferred from the words of Carcano, who argued that 'grandi parole furono fatte per emancipare la donna' and suggested doing even better: 'eleviamola, coordinandola'.¹⁵³ Alongside this vague argument, there was no suggestion on how to implement this 'elevation'. Backing the usual view that attributed reason to men and liveliness of imagination and exquisiteness of feelings to women, he claimed that all these faculties had an important value, but reason was the one that governed things. Women should be 'socially' valued but, above all, guided through life by men; for this reason, women should in turn honour men 'con fiducia ed affetto, poiché [loro] guardia e tutela'.¹⁵⁴

5. Acknowledging women's participation

These views on women remained unquestioned even during the Risorgimento, when women's participation in the Italian cause was strong and noticed by many people. The Turinese man of letters and philosopher Vincenzo Gioberti, in his *Delle condizioni presenti e future d'Italia* (1848), described women's participation in the cause as a phenomenon that needed to be 'specialmente avvertito; perché esso è al parer mio uno dei sintomi più atti a

¹⁴⁹ Romagnosi, *Opere*, IV, p. 436.

¹⁵⁰ *Ibid.*, p. 437.

¹⁵¹ *Ibid.*

¹⁵² F.M. Renazzi, *Elementa juris criminalis. Liber primus. De delictis generatim* (Bologna: Francisci Cardinali and Caroli Frulli, 1826 [1773-75]), pp. 198-99.

¹⁵³ Carcano, *Il codice civile austriaco*, p. 29.

¹⁵⁴ *Ibid.*

dimostrare che siamo giunti a maturità civile, e a pieno essere di coscienza come nazione'.¹⁵⁵

This idea, however, did not lead to a challenge to women's status. The description of women's features provided an insight into his views:

il carattere essenziale della virilità consiste nell'autonomia, per cui l'uomo [...] non dipende che da sé stesso; onde a sé solo si appoggia, in sé solo confida, sostiene senza essere sostenuto, protegge senza esser protetto, e ha una piena coscienza delle proprie forze, come quelle che sono svolte e maturate compitamente; giacché la coscienza non è altro che l'intelligenza adulta, esplicita, messa in atto e avente il possesso di sé medesima. L'indole opposta, cioè la femminilità, risiede per contro in una coscienza incoata e confusa, che non erompe in riflessione, e non si estrinseca che sotto la forma istintiva del sentimento; onde la donna si sente debole, bisognosa di appoggio e di aiuto: il suo amore è un abbandono, che ella fa di sé medesima a un essere più forte che la protegge.¹⁵⁶

Women's presumed 'coscienza incoata e confusa' was still the main excuse for preventing women from engaging in activities that were imagined implying excessive intellectual efforts for the weak female mind, such as the study of abstract sciences or politics.¹⁵⁷

Participation in the public sphere was an exclusive prerogative of men, because women were 'l'angelo della famiglia', and had 'diversità di tendenze, di vocazioni speciali',¹⁵⁸ as the patriot Giuseppe Mazzini wrote in *Doveri dell'Uomo* (1860). He was convinced that even if men were not superior to women, the two sexes had 'funzioni distinte nell'Umanità'.¹⁵⁹ Mazzini claimed that their qualities were very 'useful' in society: women could help with charity work, volunteering at hospitals and orphanages, and could collect

¹⁵⁵ V. Gioberti, *Delle condizioni presenti e future d'Italia* (London: [n. pub.], 1848), p. 10. Similar comments were expressed by Cesare Balbo, who maintained that 'quel precipitarsi delle donne nella carità, quel rimpiazzar la famiglia propria coll'universale [è] il maggior forse de' progressi morali dell'età nostra' (Balbo, *Pensieri ed esempi*, p. 316).

¹⁵⁶ V. Gioberti, *Il Gesuita moderno*, 5 vols (Naples: Batelli, 1849), IV, p. 255.

¹⁵⁷ Women's supposed inchoate and confused reason was also taken into consideration by Roussel, who pointed out that women's fickle imagination and the structure of their minds debarred them from being able to hold the broader views of politics and those great moral principles that men could easily hold (Roussel, *Sistema fisico e morale della donna*, pp. 66-7). Cabanis added that women were able to assess their inferior condition and voluntarily dismissed any large effort of mind because they understood that they were not able to bear the mental effort this activity required (Cabanis, *Rapports*, p. 195).

¹⁵⁸ G. Mazzini, *Dei doveri dell'uomo* (Milan: RCS, 2010 [1860]), p. 81.

¹⁵⁹ Ibid.

and distribute alms and also funds for the Italian cause. These ‘funzioni distinte’ did not seem to include political participation. In the Italian peninsula, where most men did not have the right to vote either, women were not even taken into consideration in this regard. Mazzini explained that,

oggi, la metà della famiglia umana, la metà dalla quale noi cerchiamo ispirazioni e conforti, la metà che ha in cura la prima educazione dei nostri figli, è per singolare contraddizione, dichiarata civilmente, politicamente, socialmente ineguale, esclusa da quell’Unità. A voi che cercate, in nome d’una verità religiosa, la vostra emancipazione, spetta di protestare in ogni modo, in ogni occasione, contro quella negazione dell’Unità. *L’emancipazione della donna* dovrebbe essere continuamente accoppiata per voi coll’*emancipazione dell’operaio*, e darà al vostro lavoro la consacrazione d’una verità universale.¹⁶⁰

Alongside a clear acknowledgement of the different status of women and men, Mazzini’s use of the term ‘emancipation’ could be interpreted as a need for a more inclusive society, which would neglect neither workers nor women. As Paolo Passaniti argued, the ‘discorso sulla famiglia e sulla donna come titolare di diritti negati dalla storia che i proletari dovranno riscrivere secondo giustizia’ would be the ideological foundation of the first demands for women’s rights.¹⁶¹ Mazzini also stressed the need for a better education for women, intended both as acquiring moral values and studying. Weak-headedness, which was identified as a normal characteristic of women and used to assert their inferiority, was considered by Mazzini to be only apparent and the result of the poor and unequal education provided to them.¹⁶² In a letter to the member of the Italian Parliament Salvatore Morelli, dated August 1867, he claimed that women’s emancipation ‘sancirebbe una grande verità religiosa, base a tutte le altre, la unità del genere umano; e associerebbe, nella ricerca del vero e del progresso umano comune, una somma di facoltà e di forze, isterilite in oggi da quella inferiorità che dimezza l’anima’.¹⁶³ Mazzini’s views reflected the new sensitivity that began to spread among theorists and politicians, which resulted in more inclusive proposals and

¹⁶⁰ Ibid., p. 148.

¹⁶¹ P. Passaniti, *Diritto di famiglia e ordine sociale: il percorso storico della società coniugale in Italia* (Milan: Giuffrè, 2011), pp. 208-09.

¹⁶² Ibid., pp. 80-81.

¹⁶³ S. Morelli, *La donna e la scienza, o, La soluzione del problema sociale* (Naples: Società Tipografico-editrice, 1869), p. LXXXIX; see also G. Mazzini, *Scritti editi e inediti*, 25 vols (Milan: Daelli, 1886), XV, pp. 2-3.

ideas.

As mentioned earlier, physical characteristics were imagined to be reflected in women's minds and therefore used to assert women's subjugation. But with the Enlightenment, the French Revolution with its novelties and expectations, and the Risorgimento with the changes that took place in the economic structure, as well as in the political order, women's nature and role in society started to be progressively questioned. As a result, some timid hints about women's status were made: as we shall see in the next chapter, from a strictly legal standpoint, the two acts promulgated in the Kingdom of Sardinia and in the Duchy of Modena, in 1837 and 1851 respectively, could be considered a first, important achievement. These new laws allowed women to succeed in the inheritance of their parents, even if not to the same extent as their brothers. Nonetheless, for women, the path to obtaining the same legal status as men was still very long. Ancient commonplaces still persisted and no substantial changes in mindsets that could lead to a more inclusive approach to their status took form, especially while elaborating new legal norms.

Chapter 3

Women and the law in the nineteenth-century Italian peninsula

Marriage and death were the two principal stages of life at which the hierarchical structure and external standing of families could be challenged. Both implied changes in a family's structure and opportunities for renegotiating positions, altering power relations, and redistributing authority within the household.¹ Consequently, governments and lawmakers paid special attention to these events, crucial as they were to 'maintain the hierarchical system on which the economy, and indeed the whole society, rested'.² As we saw in Chapter 1, the family 'accipitur in iure pro substantia', and inheritance laws were key to those who had a *substantia* to transmit. Marriage and death entailed the transfer of property, which was to be devolved in the correct way and to the chosen person, normally a man carrying forward the family name. In this context, the presence of women and the amount of goods they were entitled to was to be carefully assessed.

Since assets gave status and power, families were concerned about a possible fragmentation of their property and their goods: this would lead to a loss of prestige for the family. Hence the inheritance by women of a large part of the family assets was not contemplated, essentially because it would hinder the continued material wellbeing of their natal family, and enrich other families instead. For this reason, families adopted strategies to minimise the risk of breaking up property. 'The chief feature of the traditional European family was its instability',³ as André Burguière and François Lebrun pointed out, and thus families controlled the transmission of their wealth by limiting the number of their children, by managing celibacy and spinsterhood, and by making a wide use of *fideicommissa*, majorats, *inter vivos* donations and testaments. This would ensure that property was transferred to the right person. Wills, in particular, were used across all social classes: even

¹ D.R. Green and A. Owens, *Family Welfare: Gender, Property, and Inheritance since the Seventeenth Century* (London: Praeger Publishers, 2004), p. 8.

² J. Goody, 'Dowry and the Rights of Women to Property', in C.M. Hann, ed., *Property Relations: Renewing the Anthropological Tradition* (Cambridge: Cambridge University Press, 1998), pp. 201-13 (p. 203).

³ A. Burguière and F. Lebrun, 'The One Hundred and One Families of Europe', in A. Burguière et al., eds, *A History of the Family*, 2 vols (Cambridge: Polity Press, 1996), II, pp. 11-94 (p. 15).

people belonging to lower classes bequeathed their few possessions or money through these means,⁴ in addition to arrangements for their funerals, testimonies of their faith towards God and the Celestial Court, and various donations to the Church.⁵ The law contributed to families' efforts to preserve their patrimony in its entirety by excluding women from inheritance, and the compensation for this exclusion was the dowry, a woman's rightful share of her family's patrimony.

1. The dowry from ancient times to the nineteenth century

The dowry was a very old institution. In ancient times, its provision was a moral and social obligation, and not providing a daughter with a dowry brought dishonour to the family and was a sign of extreme poverty.⁶ Around the time of the Byzantine Emperor Justinian, in the sixth century, the dowry assumed the character of a legal obligation.⁷ This meant that a father had to give a dowry even if his daughter had her own *peculio*, as the wealth of a *filiusfamilia* was called. During the Early Middle Ages, the custom of constituting a dowry lost importance due to the presence of other institutions such as the *faderfio*, a marriage gift of negligible value given to the groom by the bride's family, particularly in use in areas

⁴ See M. Vovelle, 'La morte nella mentalità e nella pratica religiosa', in C. Russo, ed. *Società, Chiesa e vita religiosa nell'Ancien régime* (Naples: Guida, 1976), pp. 231-82 (in particular, pp. 231-41); M.A. Visceglia, 'Corpo e sepoltura nei testamenti della nobiltà napoletana', *Quaderni Storici*, 50 (1982), 583-614; M. Piccialuti, *L'immortalità dei beni: fedecommissi e primogeniture a Roma nei secoli XVII e XVIII* (Rome: Viella, 1999), pp. 139-63. The French historian Philippe Ariès has argued that, up to the eighteenth century, the will was used to express faith and decision regarding the salvation of one's body and soul. In the second half of the eighteenth century, he reported a sort of secularisation in wills. Ariès attributed this behaviour not to a dechristianisation of society, as suggested by Michel Vovelle (see M. Vovelle, *Piété baroque et déchristianisation en Provence au XVIIIe siècle. Les attitudes devant la mort d'après les clauses des testaments* (Paris: Plon, 1973), pp. 608-14), but to a distinction made by the testator between the transmission of goods and the expression of personal feelings, which reduced the will to a mere document. See P. Ariès, *Western Attitudes toward Death: From the Middle Ages to the Present* (London: Marion Boyars, 1994), pp. 63-65. With regard to the Italian peninsula, this did not hold completely true. Yet in the mid-nineteenth century, a large part of wills was dedicated to decisions concerning religious services and expressions of faith.

⁵ On this point see also Macry, *Ottocento: famiglia, élites e patrimoni a Napoli*, pp. 69-77.

⁶ See Fayer, *La familia romana*, II, p. 673.

⁷ *Ibid.*, pp. 717-37.

conquered by the Lombards.⁸ Over time, the value of the *faderfio* increased considerably and evolved to become a sort of compensation for women's exclusion from inheritance.⁹ In the twelfth century, when its value became very high and the rediscovery of the *Corpus Iuris Civilis* of Justinian led to a revival of the Roman dowry, the two terms were often used interchangeably.¹⁰ The use of the dowry became predominant, and the *faderfio* was completely abandoned. The preference given to the Roman dowry might have been motivated by the right to register a mortgage to guarantee the goods that were part of it, while the *faderfio* did not give this possibility.

From the Middle Ages, the dowry, as a custom, began to replace a daughter's rightful share of paternal inheritance, and was a means to 'dissociare le donne dall'asse maschile del lignaggio, in concomitanza con l'affermazione della concezione agnaticia della famiglia'.¹¹ Later on, when the custom of excluding women from inheritance was transcribed in municipal Statutes, the *exclusio propter dotem* gained the force of law and became part of the *iura propria* of the *communes*.¹² In the first statutes of the eleventh century, there are only traces of this provision, but, after the thirteenth century, every statute

⁸ On the *faderfio*, see F. Criscuolo, *La donna nella storia del diritto privato italiano* (Palermo: Caronna & Macoclin, 1885), pp. 49-50; see also M. Bellomo, *Ricerche sui rapporti patrimoniali tra coniugi* (Milan: Giuffrè, 1960), pp. 61-63. Enrico Galluppi, in his *La successione dei coniugi nella storia interna del diritto italiano* (1873), claimed that the *faderfio* was 'solo un corredo di vestimenti per la propria persona', see E. Galluppi, *La successione dei coniugi nella storia interna del diritto italiano* (Rome: Civelli, 1873), p. 58. At the time of the Lombards, a husband acquired also a right of guardianship over his wife known as *mundium*. Alongside the guardianship, a husband acquired the right over her properties. The *mundium* also implied that a husband was obliged to protect his wife and was responsible for her. See E. Southon, *Marriage, Sex and Death: The Family and the Fall of the Roman West* (Amsterdam: Amsterdam University Press, 2017), pp. 34-37. On the *mundium*, see also F. Brandileone, *Saggi sulla storia della celebrazione del matrimonio in Italia* (Milan: Hoepli, 1906), pp. 4-9; E. Cortese, 'Per la storia del mundio in Italia', *Rivista italiana per le scienze giuridiche*, 3/9-10 (1955-56), 323-474.

⁹ M. Bellomo, 'Dote (diritto intermedio)', *Enciclopedia del diritto*, 16 vols (Milan: Giuffrè, 1958-1965), IV, pp. 8-32 (p. 9).

¹⁰ *Ibid.*, p. 9.

¹¹ Casanova, *La famiglia italiana*, p. 92.

¹² Bellomo, *Ricerche sui rapporti patrimoniali*, pp. 163-84.

across the peninsula excluded women from succession.¹³ Women were removed from inheritance, but, at the same time, they became entitled to an indisputable right to a dowry and its amount began to be determined by law. Dowries were often equal to the Falcidian quarter or to the *legitima portio*,¹⁴ but this equality was not always a stringent requirement: some statutes only provided that it was to be ‘congrua’, that is, ‘appropriate’, a case in point being the Statute of Parma,¹⁵ or that of Vigevano (then in Piedmont, nowadays in Lombardy), which did not make any reference to its amount.¹⁶ While receiving a dowry, women were often asked to sign a document by which they renounced any further right to their paternal inheritance, even though this was by law their only right. These acts were usually drawn up before a notary and also signed by the groom or his *paterfamilias*.¹⁷ Aiming at excluding any possible interpretation of the law leading to a request of further money or goods, Paolo Ungari observed that, in practice women were asked to renounce almost every protection granted by Roman law or any municipal or state law.¹⁸ Along with the dowry, women were also given the *corredo*, called also *scherpa* or *fordello*, a trousseau formed by goods such as clothes, furniture, textiles, jewels. These were usually mentioned

¹³ F. Ercole, ‘L’istituto dotale nella pratica e nella legislazione statutaria dell’Italia superiore’, *Rivista italiana di scienze giuridiche*, 45 (1909), 191-302 (pp. 212-13). Up to now, to my knowledge, no provision allowing women to inherit has been found in any statute of the Italian peninsula.

¹⁴ The Falcidian quarter was named after the Lex Falcidia (40 BC) that stated that a maximum of three-quarters of the net estate could be disposed of in wills.

¹⁵ *Decisioni del Supremo tribunale di Revisione con note ed opuscoli relativi del cavaliere Francesco Melegari: Dal 27 aprile al 28 dicembre 1829* (Parma: Carmignani, 1832), pp. 121-23.

¹⁶ *Giurisprudenza Italiana*, 2 (1849), 671-97 (p. 694).

¹⁷ This kind of act was called ‘cautela’ (‘precaution’) and was often referred to as ‘cautela del De Luca’, named after the jurist Giovanni Battista De Luca (1613?-1683). See G.B. De Luca, *Il dottor volgare, ovvero Il compendio di tutta la legge civile, canonica, feudale e municipale, nelle cose più ricevute in pratica, moralizzato in lingua italiana*, 6 vols, ([n.p.]: [n.pub.], 1673), VI, pp. 36-39; Ungari, *Storia del diritto di famiglia*, p. 66. In Sicily and the Mezzogiorno, this ‘cautela’ was also called ‘cautela di Maranta’, named after the jurist Roberto Maranta (1476-1530?). See R. Maranta, *Speculum aureum et lumen aduocatorum praxis ciuilis* (London: Symphorianum Beraud, 1573), pp. 877-95. Besides, ‘per meglio fortificare le rinunzie medesime, lo sposo ovvero il marito, [...] promettea rendere indenni a proprie spese coloro, a cui pro si rinunziava, laddove la rinunzia si rescindesse dal magistrato’ (V. Lomonaco, *Storia de principii della legislazione* (Naples: Azzolino, 1844), p. 210).

¹⁸ Ungari, *Storia del diritto di famiglia*, p. 54.

in the dowry instruments, while other goods, which were not part of a dowry, were called *paraphernalia*.¹⁹

In return for the dowry and the *faderfio*, the bride was also entitled to receive a marriage gift. Gifts *propter nuptias* provided by the groom were called *tertia*, *morgengabe* or *quarta*, and *meffio* or *meta*: these gifts were usually the third or fourth part of the groom's patrimony, or were equal to half the amount of the bride's dowry.²⁰ *Tertia*, *quarta* and *meta* were not usually delivered to the bride herself but remained in the husband's possession. Hence, the wife was considered a creditor in this regard and was able to obtain her marriage gift only at the time of her husband's death.²¹ Both spouses were therefore originally asked to contribute 'ad sustinenda onera matrimonii', to bear the burden of marriage. Families, nevertheless, were reluctant to give these groom's gifts and, from the twelfth century onwards, the *odium quartae* began to emerge.²² This aversion towards all groom's nuptial gifts – not only towards the *quarta* – resulted at first in the promulgation of laws that reduced their overall amount and, eventually, in their suppression altogether.²³ In the *commune* of Genoa, for instance, the *tertia* had already been abolished in 1143.²⁴ From this time onwards, the burden of marriage began to shift completely to the bride's side.

This was because the dowry was given to the new family not only for the wife's needs but to support the common household. Based upon Roman law, the person holding the dowry, usually the husband or the father-in law, had the duty to support its owner, which

¹⁹ Julius Kirshner argued that, during the Middle Ages, non-dotal goods were classified as *parapherna* or *paraphernalia*, and *bona non dotalia*. The former were movable goods brought by the wife to the husband's household for her own or the common use of herself and her husband, while the *bona non dotalia* were the assets belonging to the wife that she did not bring into her husband's household. He added that fourteenth- and fifteenth-century Florentine statutes, instead, referred only to the single category of *bona non dotalia*. J. Kirshner, 'Materials for Gilded Cage: Non-Dotal Assets in Florence, 1300-1500', in D.I. Kertzer and R.P. Saller, eds, *The Family in Italy from Antiquity to the Present* (New Haven; London: Yale University Press, 1991), pp. 184-207. Nineteenth-century law and jurisprudence did not make any distinction and the terms *paraphernalia* and *bona non dotalia* seem to coincide.

²⁰ Bellomo, *Ricerche sui rapporti patrimoniali*, pp. 2-5.

²¹ For much details, *Ibid.*, pp. 35-37.

²² F. Brandileone, 'Studi preliminari sullo svolgimento dei rapporti patrimoniali fra coniugi in Italia', *Archivio giuridico*, 67 (1901), 201-81 (p. 306).

²³ Bellomo, *Ricerche sui rapporti patrimoniali*, pp. 5-18.

²⁴ D. Herlihy, 'The Medieval Marriage Market', *Medieval and Renaissance Studies*, 6/1 (1976), 3-27 (p. 8).

meant that ‘sustentationem sufferre et alimenta praestare et medicinae eius succurrere’ (sustentation, food and medicines were to be given).²⁵ The term *sustentatio* also included clothes and jewellery for everyday display. A woman, instead, was only entitled to obtain the *antifactum* or *controdote*, usually a third of the dowry’s value. Similar to other marriage gifts, the *antifactum* was not delivered to the bride or to her family, but remained in the possession of the husband until his death: from having the right to the third or the fourth of their husband’s patrimony, at the time of their widowhood, women were now given only a sum over the amount of their dowry.

As mentioned earlier, it was at this time that the *Corpus Iuris Civilis* of Justinian was rediscovered and studied by various jurists. As Mario Ascheri argued, these ‘jurists [...] persuaded the public powers that Roman-canon *ius commune* elaborated by them amounted to a kind of concentrated wisdom’.²⁶ Through their glosses,²⁷ this corpus of laws began to be known and used for cases not covered by statutes and customs. Moreover, jurists contributed to the formation of the law through their *consilia*, which were learned opinion concerning cases already before judges.²⁸

With regard to Justinian’s *Corpus Iuris Civilis*, the parts in which women were considered inferior to men were broadly highlighted and discussed; conversely, provisions of equality in inheritance were ignored. The Codex expressly stated that ‘all [...] descendants through males, whether males or females, shall be equally and alike called to the right of statutory succession in case of intestacy’, and the Novels echoed that no

²⁵ Digest, 24, 3, 22, 8, Ulpianus libro 33 Ad Edictum.

²⁶ M. Ascheri, *The Laws of Late Medieval Italy (1000-1500): Foundations for a European Legal System* (Leiden: Brill, 2013), p. 269.

²⁷ On the study of the *Corpus Iuris Civilis* and the glossators, see H. Kantorowicz and W.W. Buckland, *Studies in the Glossators of the Roman Law: Newly Discovered Writings of the Twelfth Century* (Cambridge: CUP, 1938); F. Calasso, *Medio Evo del diritto* (Milan: Giuffrè, 1954), pp. 503-606. See also E. Cortese, *Le grandi linee della storia giuridica medievale* (Rome: Il cigno Galileo Galilei, 2001) and E. Cortese, *Il Rinascimento giuridico medievale* (Rome: Bulzoni, 1992).

²⁸ On this point, see T. Dean, *Crime and Justice in Late Medieval Italy* (Cambridge: Cambridge University Press, 2007), pp. 95-109. On *consilia* about disputes concerning dowry, see, for example, C. Valsecchi, ‘L’istituto della dote nella vita del diritto del tardo Cinquecento: i *Consilia* di Jacopo Menocchio’, *Rivista di storia del diritto italiano*, 52 (1994), 205-85.

difference should exist between males and females called to the inheritance.²⁹ The exclusion of women came from their supposed inferiority (see Chapter 2) and from the belief that the *familia* continued through the male line. However, Cesarina Casanova argued, ‘la disparità o l’eguaglianza come criteri di successione non erano valori in se stessi: il valore era la stabilità della proprietà e le modalità di trasmissione dei beni vi si adattarono a seconda delle possibilità offerte dal contesto produttivo e della sua elasticità’.³⁰ This means that the exclusion of those members, who a society considered the weaker and less able to contribute to the standing of a family, e.g. women, was only the chosen way to preserve the wealth and the prestige of families and not a value to pursue.

In the Middle Ages, in the absence of sons, the estate of the deceased was inherited by relatives belonging to the male line, such as brothers. Male relatives from the family of origin were of great relevance even after a woman’s marriage. As Paolo Macry observed, the uncle (brother of the father) was a prominent figure to whom a woman could report in the event of her father’s death.³¹ Among wealthy families, often *fideicommissa* or majorats were established,³² or men used to manage together their patrimony in a joint proprietorship, known as *fraterna*, a kind of consortium usually led by the first-born son, where members lived in the same house and sat at the same table in a ‘*communio ad eundem panem et vinum*’ (sharing the same bread and wine).³³ This was not only a custom but could be included among the ‘esigenze socio-politiche’, which Andrea Romano suggested were used to ‘garantire la conservazione dell’unità familiare intorno al patrimonio’,³⁴ thus sharing not only ‘bread and wine’, but also the common goal of preserving the patrimony in its entirety, that is, avoiding the fragmentation of the *substancia* that gave value *in iure* to a family.

²⁹ ‘Nullam vero esse volumus differentiam in quacumque successione aut hereditate inter eos qui ad hereditatem vocantur masculos ac feminas’, in Novel 118, 4; see also Codex 6, 58, 14, 1 and Novel 127, 1-2.

³⁰ Casanova, *La famiglia italiana*, pp. 109-10.

³¹ On this point, see Macry, *Ottocento: famiglia, élites e patrimoni a Napoli*, pp. 38-41.

³² The institution of the *fideicommissum* was not used before the fifteenth century. See R. Trifone, *Il fedecommissato: storia dell’istituto in Italia* (Naples: Pierro, 1914); M.C. Zorzoli, ‘Della famiglia e del suo patrimonio: riflessioni sull’uso del fedecommissato in Lombardia tra Cinque e Seicento’, *Archivio storico lombardo*, 115 (1989), 91-148; M. Piccialuti, *L’immortalità dei beni: fedecommissati e primogeniture a Roma nei secoli XVII e XVIII* (Rome: Viella, 1999).

³³ C. Fumagalli, *Il diritto di fraterna nella giurisprudenza da Accursio alla codificazione* (Turin: Bocca, 1912), p. 44.

³⁴ Romano, *Famiglia, successioni e patrimonio*, p. 11.

The dowry of a woman could include real estate, but was mainly and preferably given in cash. By giving cash, families avoided devolving properties that could represent a symbol of the family's strength to other individuals, and, at the same time, money could be more easily used by the husband as an investment.³⁵

During the Middle Ages, the ownership of properties was a crucial concern also to lawmakers: many statutes provided norms to avoid properties being given to people from other *communes*. These norms tried to limit marriages of women to men of other *communes* by imposing several restrictions. To discourage these marriages, the statutes of Pesaro and Senigallia, for example, provided that wealthy women who wanted to marry outside the *commune* had to pay a huge tax; whereas men could not have any right over dowries if they did not relocate into the *commune* of origin of their wives.³⁶ The 1255 Statute of Parma prohibited the constitution of dowries with properties existing in the territory of the *commune*, especially with 'case e castella' (houses and castles).³⁷ Along with preventing a loss of status for the family, the aim was to avoid these properties being owned by people from a different *commune*, who might be rivals or even enemies. If a family could not provide a daughter with a dowry other than real estate, the statutes did not permit their sale. In towns such as Camerino, instead, women from the *contado*, who married people from inside the *commune*, were allowed to bring dowries of double the amount that women from the *commune* who married husbands from the countryside could bring.³⁸ In this case, this rule could have been mainly aimed to allow capital to pour in to the *commune* in order to favour trade.

During the twelfth century, the value of dowries was still affordable to a family. An example often cited is Canto XV of the *Paradiso*, in which Dante wrote that, at the time of his ancestor Cacciaguida, the birth of a daughter did not cause fear to her father, because it

³⁵ A dowry could also include rights to goods, release of debts, or movables. See J. Kirshner, 'Pursuing Honor While Avoiding Sin: The 'Monte Delle Doti' of Florence', *Quaderni di studi senesi*, 41 (1978), 1-82 (p. 2).

³⁶ A. Pertile, *Storia del diritto italiano: dalla caduta dell'Impero Romano alla codificazione*, 8 vols (Turin: Unione tipografico-editrice, 1892), III, p. 323.

³⁷ *Ibid.*

³⁸ For example, the Statute of Camerino (1578), cit. in Pertile, *Storia del diritto italiano*, p. 324. See also F. Criscuolo, *La donna nella storia del diritto privato italiano* (Palermo: Carini, Caronna and Macoclin, 1885), pp. 63-64; M.T. Guerra Medici, 'Diritto statutario e condizione della donna nella città medievale dei secc. XII-XIV', *Rivista di storia del diritto italiano*, 65 (1992), 319-36 (pp. 321-22); Ungari, *Storia del diritto di famiglia*, pp. 68-69.

did not imbalance the proper measure.³⁹ In the Renaissance, as society changed, the value of dowries increased considerably and even became ostentatious. The value of a dowry was an indicator of social prestige and ‘poteva portare in più occasioni la famiglia della donna a compromettere il suo equilibrio economico impegnandosi a versare somme troppo elevate per le sue possibilità’.⁴⁰ Conversely, having only sons meant that the family ‘fortune was safe from devastating daughters whose need for dowries might compel withdrawal from capital’, as argued by Frederic Lane when describing the Venetian Barbarigo family.⁴¹

To this increase in the value of dowries, some towns responded by establishing strict limits by law. For example, in Venice (in 1420), women could have a 1,600-*ducato* dowry at the most;⁴² in Rome (in 1400), 800 *fiorini*, plus a trousseau worth 600 *fiorini*, were allowed; in Foligno (in 1589), 1,200 *scudi* was the maximum permitted dowry in the town itself and 200 in the countryside.⁴³

The amount of a dowry was also framed by local customs. In the Kingdom of Naples, for example, dowries could be constituted on the basis of the ‘uso di Proceri e Magnati’. This custom was in force only among the ‘Proceri’ and ‘Magnati’, namely the ancient nobility that exercised jurisdictional powers within their fiefs.⁴⁴ Alongside this custom,

³⁹ Dante, *Paradiso*, XV, 103-105: ‘Non faceva, nascendo, ancor paura/la figlia al padre, ché ’l tempo e la dote/non fuggien quinci e quindi la misura’, in *La Divina Commedia*, ed. by G. Petrocchi (Turin: Einaudi, 1975), p. 339.

⁴⁰ Casanova, *La famiglia italiana*, p. 90.

⁴¹ F.C. Lane, *Andrea Barbarigo: Merchant of Venice, 1418-1449* (Baltimore: Johns Hopkins, 1944), p. 39. On dowries in Venice, see S. Chojnacki, ‘Dowries and Kinsmen in Early Renaissance Venice’, *The Journal of Interdisciplinary History*, 5/4 (Spring, 1975), 571-600 (pp. 571-72). On dowries in Florence, see L. Martines, *The Social World of the Florentine Humanists, 1390-1460* (London: Routledge and Kegan Paul, 1963), pp. 37-38 and p. 200; V. Cox, ‘The Single Self: Feminist Thought and the Marriage Market in Early-Modern Venice’, *Renaissance Quarterly*, 48/3 (1995), 513-81. See also A. Tenenti, *L’Italia del Quattrocento. Economia e società* (Rome: Laterza, 1996), pp. 123-24.

⁴² S. Chojnacki, *Women and Men in Renaissance Venice* (Baltimore: Johns Hopkins University Press, 2000), pp. 56-57.

⁴³ Pertile, *Storia del diritto italiano*, p. 322. For a study of the amount of dowries among the Neapolitan nobles, see M.A. Visceglia, ‘Linee per uno studio unitario dei testamenti e dei contratti matrimoniali dell’aristocrazia feudale napoletana tra fine Quattrocento e Settecento’, *Mélanges de l’Ecole française de Rome. Moyen-Âge, Temps modernes*, 95 (1983), 393-470 (in particular, pp. 447-59).

⁴⁴ Visceglia, ‘Linee per uno studio unitario’, p. 459.

there was the ‘Patto di Capuana e Nido’,⁴⁵ a pact that could be signed at the time of the marriage agreement also by non-nobles and by those not belonging to the ‘sedili’ of Capuana or Nido.⁴⁶

After this period of augmentation in the value of dowries, their amount became more restrained, once again equal to the legitime or even less. However, as constituting a dowry implied a great financial commitment, during the fifteenth century, various Monti delle Doti or Monti di Maritaggi were created among families or at municipal level. These Monti were a sort of tontines aimed at providing dowries for subscribers’ female relatives, thus allowing a delay in a family’s economic effort.⁴⁷ Moreover, some families destined female members to convent life as a way to avoid spending a large part of the family’s patrimony for a dowry. Even though nunneries, too, required a dowry (called also ‘elemosina’), its amount was much lower than the one required for a marriage.⁴⁸ Yet in the eighteenth century, sending

⁴⁵ The origin of the pact of Capuana and Nido is unknown. At the beginning of the XIV century, King Charles II (1248-1309) ordered to collect the custom of Naples and confirmed the use of the principle *paterna paternis, materna maternis* to settle an inheritance. King Ferdinand the Catholic (1452-1516), then, formally conceded the possibility to enter into the ‘patto di Capuana e Nido’. See B. Winspeare, *Del patto di Capuana e Nido, e de’ suoi effetti. Dissertazione* (Naples: Trani, 1823), pp. 42-50.

⁴⁶ The Sedili, or Seggi or Piazze, were administrative institutions of the Kingdom of Naples, formed by families of high standing. They were named after the area to which they pertained, and had different prerogatives. See C. Tutini, *Dell’origine e fundazione de’ seggi di Napoli, del tempo in che furono istituiti* (Naples: Gessari, 1754); A. Di Letizia and G. Doria, *Degli usi de’ proceri, e magnati e di Capuana, e Nido* (Naples: Perger, 1786); C. Marini, *Lezioni di dritto civile novissimo*, 4 vols (Naples: Osservatore medico, 1830), I, pp. 390-91; N. Del Forno, *La storia civile del Regno di Napoli in compendio* (Naples: De Dominicis, 1841), p. 85; Visceglia, ‘Linee per uno studio unitario’, in particular, pp. 459-70.

⁴⁷ Tontines are investment plans by which several subscribers pay an agreed sum into the fund, and receive an annuity that increases as members die. See F. Luise, ‘Famiglia e società a Solofra tra il 1640 e il 1676 nei capitoli matrimoniali e nei testamenti’, *Mélanges de l’Ecole française de Rome. Moyen-Age, Temps modernes*, 95 (1983), 299-338 (pp. 316-20); G. Delille, ‘Un esempio di assistenza privata: i monti di maritaggio del Regno di Napoli (secoli XVI–XVIII)’, in G. Politi, M. Rosa and F. Della Peruta, eds, *Timore e carità: i poveri nell’Italia moderna* (Cremona: Libreria del Convegno, 1982), pp. 227-81; A. Molho, *Marriage Alliance in Late Medieval Florence* (Cambridge: Harvard University Press, 1994), pp. 27-179; I. Chabot and M. Fornasari, eds, *L’economia della carità: le doti del Monte di pietà di Bologna (secoli XVI-XX)* (Bologna: Il Mulino, 1997).

⁴⁸ On this point, see Vismara, *L’unità della famiglia nella storia del diritto in Italia*, pp. 259-61; Ungari, *Storia del diritto di famiglia*, p. 57. Giovanni Battista De Luca explained also that ‘la regola, la quale così dispone, in maniera che se la figlia d’un Principe, ovvero di un signore grande, alla quale, volendosi maritare convenisse

women to a nunnery without a true vocation was regarded with some criticism; in this regard, the man of letters Ludovico Antonio Muratori commented:

molte Nobili ma povere Zittelle, le quali o non v'è maniera di maritarle, o altro ripiego non v'ha per isgravarne la Casa, [sono confinate] in un Monistero, dove son fortunate, se con vera vocazione rinunziano al Mondo: infelici, se il contrario.⁴⁹

The expression 'isgravarne la Casa', used by Muratori, clearly underlines the problem with dowering a daughter: a dowry was a significant financial commitment, and a family, if not wealthy enough, had to look for solutions to keep its economic strength without challenging its honour. However, if the case of Arcangela Tarabotti provides us with a clear depiction of a forced monachization,⁵⁰ it should be pointed out that convents were not always experienced by nuns as a prison. Gabriella Zarri, in particular, observes that nunneries were often 'una estensione della famiglia patriarcale, un contenitore per l'eccedenza demografica, ma anche un solido centro di potere e di possibilità di autorealizzazione per le donne, [un] luogo privilegiato per affermare e accrescere l'onore della famiglia'.⁵¹

una dote di cento, e più mila scudi, elegga di farsi monaca, in tal caso a sua dote congrua, e di paraggio, sarà quella ch'è solita darsi al Monastero, ancorché fosse di scudi mille, e meno'. De Luca, *Il dottor volgare*, III, p. 111.

⁴⁹ L.A. Muratori, *Della pubblica felicità, oggetto de' buoni principi* (Lucca: [n.pub.], 1749), p. 279. On nunneries, see also G. Zarri, 'Monasteri femminili e città (secoli XV-XVIII)', in G. Chittolini and G. Miccoli, *Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea* (Turin: Einaudi, 1986), pp. 357-429 (in particular, pp. 420-29); G. Zarri, *Recinti: donne, clausura e matrimonio nella prima età moderna* (Bologna: Il Mulino, 2000), pp. 203-49. See also K.J.P. Lowe, *Nuns' Chronicles and Convent Culture in Renaissance and Counter-Reformation Italy* (Cambridge: Cambridge University Press, 2003). On forced monachization, see also G. Marchetto, 'Il volto terribile del padre. 'Metus reverentialis' e matrimonio nell'opera di Tomás Sánchez', in Seidel Menchi and Quagliani, eds, *I tribunali del matrimonio*, pp. 269-88; A.J. Schutte, *By Force and Fear: Taking and Breaking Monastic Vows in Early Modern Europe* (Ithaca: Cornell University Press, 2011); A.J. Schutte, 'Genitori, figli e moncazione forzata: norme ecclesiastiche versus patria potestà (secc. XVII-XVIII)', in G. Ciappelli, S. Luzzi, M. Rospocher, eds, *Famiglia e religione in Europa nell'età moderna: studi in onore di Silvana Seidel Menchi* (Rome: Edizioni di Storia e Letteratura, 2011), pp. 147-59.

⁵⁰ See A. Tarabotti, *L'Inferno monacale di Arcangela Tarabotti*, ed. by F. Medioli (Turin: Rosenberg and Sellier, 1990); J.G. Sperling, *Convents and the Body Politic in Late Renaissance Venice* (Chicago: University of Chicago Press, 1999), pp. 31-36.

⁵¹ G. Zarri, 'Presentazione', in A. Tarabotti, *Lettere familiari e di complimento*, ed. by M. Ray and L.L.

From a formal point of view, the institution of the dowry did not undergo any substantial changes for centuries. The new role of educator assigned to women in the eighteenth century did not lead by any means to a corresponding improvement in their legal status.

In force since the Middle Ages, the *ius commune*, together with customary law and municipal statutes, remained basically unchanged until the Enlightenment, when some states of the Italian peninsula issued their *Costituzioni*.⁵² The enactment of these acts was part of a broader process driven by the need to create a coherent legal and jurisprudential framework: from the sixteenth century onwards, several collections of the *communes opiniones doctorum* (the opinions of leading jurists),⁵³ courts' decisions and legal acts were published.⁵⁴ With regard to the law, the enactment of the *Leggi e costituzioni di S. M. il Re di Sardegna* in 1723 was a first attempt to systematically organise the legal framework. Another similar act was produced in the Duchy of Modena, namely the *Costituzioni Estensi* of 1771.⁵⁵ Despite aiming to progressively repeal all the existing law sources, the use of the *ius commune* was still possible.⁵⁶ These *Costituzioni* were mainly collections of acts already in force to which very few additions were made, and did not introduce any improvement to women's condition.⁵⁷

Westwater (Turin: Rosenberg and Sellier, 2005), pp. 7-17 (pp. 9-11).

⁵² See also Ungari, *Storia del diritto di famiglia*, pp. 39-40.

⁵³ On the *communis opinio doctorum*, see A. Padoa-Schioppa, *A History of Law in Europe: From the Early Middle Ages to the Twentieth Century* (Cambridge: Cambridge University Press, 2017), pp. 297-99.

⁵⁴ On this point, see A. Cavanna, *Storia del diritto moderno in Europa*, 2 vols (Milan: Giuffrè, 1979), I, pp. 258-69.

⁵⁵ An overview can be found in Cavanna, *Storia del diritto moderno in Europa*, I, pp. 278-92.

⁵⁶ *Ibid.*, pp. 278-82, 287-93.

⁵⁷ The sole source of law which granted equal rights to every individual was the Statute of San Leucio, promulgated by Ferdinand IV of the Bourbon in 1789 and limited to the silk weavers' colony of San Leucio, a village 30 km from Naples. The Statute given by the king provided equal inheritance rights for males and females, the dowry was abolished and the making of wills was forbidden. See V. Marcadé, *Spiegazione teorico-pratica del Codice Napoleone contenente l'analisi critica degli autori e della giurisprudenza*, 5 vols (Naples: Marghieri, Giachetti, 1874), V, p. 94; C. Nardi, 'Una legislazione egualitaria d'un re assolutista: il codice della colonia di S. Leucio', *L'Eloquenza*, 49 (1959), 96-111; G. Vismara, *Il diritto di famiglia in Italia dalle riforme ai codici: appunti* (Milan: Giuffrè, 1978), p. 8; Ungari, *Storia del diritto di famiglia*, pp. 61-62; N. Verdile, ed., *L'utopia di Carolina. Il Codice delle leggi leuciane* (Naples: La stamperia digitale, 2007); N.

2. The French Revolution: the Jacobin Constitutions and the Napoleonic Code

The eighteenth-century French conquests led to the founding of the Sister Republics.⁵⁸ At first, in the territories of these republics, the decrees issued by the French revolutionaries were enforced. Each republic began to elaborate its own *Costituzione*. During the period from 1789 up to 1795, the legislation which emerged from the French revolution was driven by a bourgeois and secular conception of the family and the state. This resulted in canon law, for example, being replaced by a secular law on marriage.⁵⁹ Other than abolishing *fideicommissa* and the feudal hierarchy of persons, these laws considered women and later-born sons as individuals with equal rights to inherit from their parents. With the Thermidorian Reaction, and later with the enactment of the Napoleonic code, many principles that inspired the revolution were put aside.⁶⁰ The French code, applied in the

Verdile, 'Tra leggi illuminate e lettere private: il 1789 di Maria Carolina d'Asburgo', *Archivio per la Storia delle Donne*, 5 (2008), 71-106.

⁵⁸ The Sister or Jacobins Republics were founded as a result of French conquests in various areas of Europe. In the Italian peninsula, too, several republics were founded. The largest ones were the Cisalpine, the Cispadane, the Roman and the Parthenopean Republics. See M. Roberti, *Milano capitale napoleonica: la formazione di uno stato moderno, 1796-1814* (Milan: Fondazione Treccani, 1946); C. Ghisalberti, *Le costituzioni giacobine (1796-1799)* (Milan: Giuffrè, 1973); C. Ghisalberti, *Dall'antico regime al 1848: le origini costituzionali dell'Italia moderna* (Rome: Laterza, 1974), pp. 61-85; S.J. Woolf, *Napoleon's Integration of Europe* (London: Routledge, 1991); C. Ghisalberti, *Istituzioni e società civile nell'età del Risorgimento* (Rome: Laterza, 2005), pp. 16-41; M. Lenci, 'The Battle over 'Democracy' in Italian Political Thought during the Revolutionary *Triennio*, 1796-1799', in J. Oddens, E. Jacobs, M. Rutjes, eds, *The Political Culture of the Sister Republics, 1794-1806* (Amsterdam: Amsterdam University Press, 2015), pp. 97-106.

⁵⁹ Vismara, *Il diritto di famiglia*, p. 25.

⁶⁰ The law promulgated in the areas conquered by the French was called *droit intermédiaire*, which refers to those laws enacted between 1789 and 1804, namely from the time the Assemblée Nationale proclaimed itself Assemblée Nationale Constituante (9 July 1789) up to the promulgation of the Napoleonic code (21 March 1804). It is called *intermédiaire* to evoke the idea of a transition period between the *Ancien Régime* and the Napoleonic Code. The French legal historian Eric de Mari argued that the term *intermédiaire* did not reflect the disruptive context in which the *droit* was promulgated. He instead suggested that *révolutionnaire* would be more appropriate. E. de Mari, 'Le Droit intermédiaire. Posture juridique, imposture politique et vacuité d'une convention', *La Révolution française, Rupture(s) en Révolution*, 5 (2011), <<http://lrf.revues.org/340>>

Italian peninsula under the name of *Codice Civile di Napoleone il Grande pel Regno d'Italia*, reintroduced some peculiarities of the *Ancien Régime*'s legal framework, such as the punishment of adultery or the parents' consent to marriage.⁶¹

Although scholars consider family law provisions of the Napoleonic code reactionary in comparison to the Constitutions of the Sister Republics of Italy and to what the Revolutionaries had envisioned, to the Italian peninsula, this code 'appariva l'immagine stessa della rivoluzione [e] uno *standard* giuridico che ancora per molti decenni si presenterà come una meta'.⁶² The chance given to all children to inherit from their parents, regardless of their sex,⁶³ was a disruptive novelty for the nineteenth-century legal system.⁶⁴ Marriage became a pact between individuals and susceptible, therefore, to divorce. Even though it reconfirmed the primacy of man over woman and enforced marital authorisation as a legal requirement for any act of a wife's civil life, the Napoleonic code was not welcomed in the Italian peninsula. In fact, the French emperor challenged a centuries-long equilibrium founded on the consolidation of a family's fortune in its entirety through *fideicommissa* and majorats, on strong land immobilisation, and on a rigidly patriarchal and authoritarian family structure, implemented through the management of marriage, celibacy and spinsterhood.⁶⁵ By proclaiming that all heirs were to be treated equally,⁶⁶ the Napoleonic

[accessed 22 September 2017]. However, it should be noted that, on 12 June 1795, the decree 21 prairial year III abolished the word *révolutionnaire*. See J. Hardman, *The French Revolution: The Fall of the Ancien Régime to the Thermidorian Reaction, 1785-1795* (London: Arnold, 1981), pp. 220-21. On the reactionary shift of the French Revolution, see also N.C. Shusterman, *The French Revolution: Faith, Desire, and Politics* (London: Routledge, 2014); I. Davidson, *The French Revolution: From Enlightenment to Tyranny* (London: Profile Books, 2016).

⁶¹ Vismara, *Il diritto di famiglia*, pp. 32-39. See also Ghisalberti, *Istituzione e società civile nell'età del Risorgimento*, pp. 42-59.

⁶² Ungari, *Storia del diritto di famiglia*, p. 104, see also pp. 93-124, and Vismara, *Il diritto di famiglia*, pp. 25-51. For a discussion on the reactionary nature of the Napoleonic code see J.L. Halpérin, *L'Impossible Code Civil* (Paris: Presses universitaires de France, 1992), pp. 276-77. See also J. Gordley, 'Myths of the French Civil Code', *The American Journal of Comparative Law*, 42/3 (Summer, 1994), 459-505.

⁶³ Art. 745, in *Codice Civile del Regno d'Italia*, in *Collezione Completa dei Moderni Codici Civili* (Turin: Minerva Subalpina, 1845), p. 43.

⁶⁴ Vismara, *Il diritto di famiglia*, pp. 47-52; Ungari, *Storia del diritto di famiglia*, pp. 93-124.

⁶⁵ A.M. Banti, 'I proprietari terrieri nell'Italia centro-settentrionale', in Bevilacqua, ed., *Storia dell'agricoltura italiana in età contemporanea*, III, pp. 55-56.

⁶⁶ As pointed out by Jean-Louis Halpérin, despite being considered egalitarian, 'il y a dans le Code civil des

code threatened the *familia* of the *Ancien Régime*, a body which ‘accipitur in iure pro substantia’ and *accipitur* in society for the role and the prestige it had and represented.⁶⁷

Along with the code’s disrupting and unpopular regulations, the most significant legacy of the Napoleonic conquests was codification. During the *Ancien Régime*, jurists, judges and other scholars helped to shape the law with their *interpretatio*, in addition to the several sources that concurred in the formation of the legal framework.⁶⁸ With codification, on the contrary, the legislative power assumed the exclusive right to make laws,⁶⁹ and, henceforth, the state became the only existing authority; legal privileges of particular groups were no longer recognised;⁷⁰ and the feudal legacy of the ‘soggezione di persona a persona’ was abolished.⁷¹

Mario Enrico Viora argued that laws before the enactment of the Napoleonic code were qualified as ‘consolidazioni’ rather than codes, namely compilations and collections of various decrees and acts already in force.⁷² A code, by contrast, is an autonomous source

personnes *plus égales* que d’autres: les maris par rapport aux femmes’, Halpérin, *L’Impossible Code Civil*, p. 276.

⁶⁷ See also Vismara, *Il diritto di famiglia*, p. 46.

⁶⁸ By assuming that they did not cover every aspect of life, laws had to be interpreted. From ancient Roman jurists through medieval glossators to modern jurists, laws have been interpreted, unfolded and explained. For further discussion, see E. Betti, *Teoria generale della interpretazione*, 2 vols (Milan: Giuffrè, 1955), II, pp. 789-866. See also V. Crescenzi, ‘Problemi dell’interpretatio nel diritto comune classico’, in A.I. Ferreiròs, ed., *El Dret Comú i Catalunya, Actes del II Simposi Internacional, Barcelona, 31 maig 1 juny del 1991* (Barcelona: [n. pub.], 1992), pp. 167-206; M. Stolleis, ‘Judicial Interpretation in Transition from the *Ancien Régime* to Constitutionalism’, in Y. Morigiwa, M. Stolleis and J.L. Halpérin, eds, *Interpretation of Law in the Age of Enlightenment: From the Rule of the King to the Rule of Law* (Dordrecht: Springer, 2011), pp. 3-17.

⁶⁹ P. Grossi, ‘Assolutismo giuridico e diritto privato nel secolo XIX’, *Rivista di storia del diritto italiano*, 64 (1991), 5-17 (pp. 6-7); P. Costa and D. Zolo, eds, *The Rule of Law History, Theory and Criticism* (Dordrecht: Springer, 2007), p. 325.

⁷⁰ Banti, ‘I proprietari terrieri nell’Italia centro-settentrionale’, p. 47.

⁷¹ *Raccolta degli atti del governo di S. M. il Re di Sardegna dall’anno 1814 a tutto il 1832*, 22 vols (Turin: Pignetti and Carena, 1842), VI, p. 389.

⁷² For a further discussion of the term ‘consolidations’, see M.E. Viora, *Consolidazioni e codificazioni: contributo alla storia della codificazione* (Turin: Giappichelli, 1967); N. Irti and F. Santoro-Passarelli, ‘Consolidazioni e codificazioni delle leggi civili’, *Atti dei Convegni Lincei*, 106 (1994), 245-52 (pp. 245-47). A different point of view is expressed by U. Petronio, ‘Una categoria storiografica da rivedere’, *Quaderni fiorentini per la storia del pensiero giuridico moderno*, 13 (1984), 705-17.

of law.⁷³ Applied to almost the entire Italian peninsula (albeit formally under different governments), Napoleon's code – which is considered the first code of law of the modern era – was therefore the sole law and excluded the resort to any other source. It was complete and exhaustive, and served as a regulatory framework for the development of codes in the nineteenth century.

3. Women and the law during the Restoration

With Napoleon's defeat and the Congress of Vienna, the deposed monarchs were restored to power in their own states. The *Codice Civile pel Regno d'Italia* was repealed and the previous legal system was reinstated with the exception of some norms that simplified matters related to private contracts or mortgages.⁷⁴ As Paolo Ungari wrote, with regard to family law, the Restoration resulted in a 'vera e propria reazione politico-morale inflessibile'.⁷⁵ Reverting to the previous legal system meant that a subsidiary recourse to Roman law, customary law and municipal statutes for topics not covered in the acts issued by monarchs was again possible, and canon law was still complementary to the *iura propria* of the pre-unification Italian states.⁷⁶

The Restoration reconfirmed the Catholic Church's jurisdiction on non-patrimonial matters related to marriage, such as its dissolution for example. Marriage was in fact regulated by the formalities prescribed by the Catholic Church;⁷⁷ ecclesiastical jurisdiction

⁷³ On this point see G. Galasso, 'Il contesto storico: l'età del *Codice*', and P. Grossi, '*Code Civile*: una fonte nuovissima per la nuova civiltà giuridica', *Atti dei Convegni Lincei*, 221 (2006), 9-18 and 19-42.

⁷⁴ An overview of this point could be found in Soresina, *L'età della Restaurazione*, pp. 25-51.

⁷⁵ Ungari, *Storia del diritto di famiglia*, p. 125.

⁷⁶ For a discussion of the Napoleonic code and law in pre-unification Italian states, see G. Astuti, 'Il Code Napoléon in Italia e la sua influenza sui codici degli stati italiani successori', *Accademia nazionale dei Lincei*, 179 (1973), 176-237; S. Solimano, *L'edificazione del diritto privato italiano: dalla Restaurazione all'Unità* (19 maggio 2005), in *forum historiae iuris*, <<http://www.forhisiur.de/2005-05-solimano/>> [accessed 6 December 2017]. On the use of canon law, see also P. Grossi, *A History of European Law* (Chichester: Wiley-Blackwell, 2010), pp. 31-32.

⁷⁷ Marriage was to be celebrated according to the formalities enshrined by the Catholic Church. This provision was included in the *Codice per gli Stati di Parma, Piacenza e Guastalla* (art. 34), the *Costituzioni Estensi* (art. 74), the Civil Code of the Kingdom of Sardinia (art. 108), and the *Codice per lo Regno delle Due Sicilie* (art. 67). For further discussion on this point, see Passaniti, *Diritto di famiglia*, pp. 163-203. On marriage and canon

and canonical impediments were recalled into force, and often canon law rules were integrated by stricter prescriptions from the state. With regard to marriage, for example, parental consent was not needed according to canon law. In the Duchy of Modena, however, it was formally required by the *Costituzioni Estensi*, and people marrying without this approval were put under sanctions. This had the following implications:

per porre qualche ritegno ai disordini, agl'inconvenienti, e alle dissensioni, che producono nelle famiglie i matrimoni, che si contraggono da' figli senza saputa, o consenso de' loro padri [gli alimenti che gli ascendenti dovranno prestare saranno] i frutti della metà della legittima da calcolarsi di tempo in tempo su le forze del loro patrimonio, nella quale metà sola della legittima sarà in arbitrio degli stessi ascendenti d'istituirlo, privandolo di tutto il resto della loro successione.⁷⁸

This behaviour could be interpreted as a way to complement paternal authority: as Marco Cavina pointed out, while 'i sommovimenti sociali e bellici scompaginavano l'ordine domestico[,] il Duca [si faceva] carico dei compiti paterni mal praticati, indossando le vesti di padre supplente'.⁷⁹ Children born from marriages contracted without parental consent, as well as their mothers, were not entitled to any alimony or asset from inheritance.⁸⁰ These rules were provided with the intent of limiting marriages between people belonging to different social classes. Nevertheless, as we shall see in Chapter 4, a marriage – being a lifelong bond sanctified by God – was considered indissoluble and valid even if contracted without the parents' consent.

Whereas jurisdiction on personal matters related to marriage was handled by the Church, acts undertaken by the restored monarchs and related to family law had the main purpose of maintaining the 'pietrificazione della società italiana e [l']irrigidimento programmatico delle sue frontiere di classe'.⁸¹ Secular laws were driven by an agnatic conception of the family which gave preference to the descendants in the male line.

Soon after the Congress of Vienna, an edict issued in the Kingdom of Sardinia on 18 November 1817 enabled the introduction of *fideicommissa* and majorats, which had been

law, see J. Gaudemet, *Sociétés et mariage* (Strasbourg: Cerdic, 1980); Gaudemet, *Le Mariage en Occident*.

⁷⁸ Art. I Tit. XIII, *Codice Estense*, in *Collezione completa*, p. 809.

⁷⁹ Cavina, *Il padre spodestato*, pp. 153-54.

⁸⁰ Art. II Tit. XIII, *Codice Estense*, in *Collezione completa*, p. 809.

⁸¹ Ungari, *Storia del diritto di famiglia*, p. 125.

abolished with the *Regio Editto* on 29 July 1797.⁸² These two institutions were considered particularly important for the wealth of the state as well as for that of the families themselves. As stated in the *Codice Estense*, for example, their objective was ‘la conservazione, e il sostegno delle principali famiglie degli Stati’.⁸³ The Pope’s *Regolamento Legislativo e Giudiziario per gli affari civili* allowed majorats, too.⁸⁴ Despite rulers being eager to reintroduce these institutions, probably driven by the desire to meet the élite’s expectations, jurists and theorists had not been favourable to them well before the winds of revolutions started blowing. In particular, in 1742, Ludovico Antonio Muratori claimed that: ‘chiamo io superbia quella di una creatura [...] che voglia far da padrone [...] non solamente allorché spira l’ultimo fiato, ma per moltissimi anni anche dopo la morte sua’.⁸⁵ The critique against institutions such as *fideicommissa* could be explained by the fact that, other than favouring only one member of a family and neglecting others, they also hindered the possibility of dividing the goods and using them freely and more efficiently.

In addition to these acts, immediately after the Restoration, the monarchs of the Italian peninsula started developing new legal codes. The ideals of the Enlightenment and the French Revolution, along with nearly twenty years of domination, had introduced institutional and juridical innovations that were settled into people’s minds, and could no longer be anachronistically deleted; they could possibly be adapted to the new order.⁸⁶ As previously mentioned, while many legal institutions such as those of commercial law were maintained as they were in the Napoleonic Code, in terms of family law it was a *tout court*

⁸² *Raccolta degli atti del governo di S. M. il Re di Sardegna dall’anno 1814 a tutto il 1832*, 22 vols (Turin: Pignetti and Carena, 1842), VI, pp. 388-91.

⁸³ Art. I Tit. XXXIII, *Codice Estense*, in *Collezione completa*, p. 828. The 1851 Code of the Duchy of Modena allowed majorats, too. See Art. 864-881, *Codice Civile per gli Stati Estensi* (Modena: Eredi Tipografi Reali, 1851), pp. 184-88.

⁸⁴ Art. 38, *Regolamento Legislativo e Giudiziario per gli affari civili*, in *Collezione completa*, p. 877.

⁸⁵ L.A. Muratori, *Dei difetti della giurisprudenza* (Venice: Pasquali, 1742), p. 146. On this point, see also the opinion of Giovanni Battista De Luca in M. Piccialuti, *L’immortalità dei beni*, pp. 90-107.

⁸⁶ See, for example, C. Semeraro, *Restaurazione, chiesa e società: la ‘seconda ricupera’ e la rinascita degli ordini religiosi nello Stato pontificio (Marche e Legazioni 1815-1823)* (Rome: LAS, 1982), p. 49; A. Aquarone, ‘La restaurazione nello Stato Pontificio e i suoi indirizzi legislativi’, *Archivio della Società romana di storia patria*, 78 (1955), 119-88 (pp. 152-60); G. Santoncini, *Sovranità e giustizia nella Restaurazione pontificia. La riforma della organizzazione della giustizia criminale nei lavori preparatori del Motu Proprio del 1816* (Turin: Giappichelli, 1996), pp. 5-20.

return to the past. The repeal of the Napoleonic Code and the return to the previous legal system implied the reintroduction of the separation of property between spouses. There were a few exceptions to this rule, as for example in the island of Sardinia, where a marriage custom to celebrate weddings known as *a sa sardisca* existed. Conversely to what happened in other parts of the Italian peninsula, according to this custom, goods acquired by spouses were part of a property in common between them.⁸⁷

The return to the law in force during the *Ancien Régime* also meant that, in most states of the Italian peninsula, daughters were again excluded *propter dotem* (because of the dowry) from inheriting, and sometimes did not even have the right to obtain an amount equal to the *portio legitima*. In varying manners and degrees, families from all social classes used to constitute dowries to their daughters even during the Napoleonic period. Their provision was considered to be essential for their ‘collocamento’, literally their ‘placement’. Given that women were able to inherit from their parents, the dowry was just meant to be an advance on their inheritance, but, as we shall see in more detail in Chapter 5, in practice this norm was overridden by acts signed to renounce further rights.

Marriage was a matter of public and private interest. Having a dowry enabled a woman to join society as a subject worthy of respect. Not having a dowry was considered a dreadful situation across all social classes, to the extent that charities drew dowries for poor but deserving girls.⁸⁸ In nineteenth-century jurisprudence, the term ‘collocamento’ occurred

⁸⁷ The custom to celebrate the *a sa sardisca* weddings was preserved until 1865. It was mainly spread among lower classes and included the common property of all the goods of the spouses, or just the common property of those acquired after marriage. For a broader discussion on *a sa sardisca* weddings, see M. Roberti, ‘Per la storia dei rapporti patrimoniali fra coniugi’, *Archivio Storico Sardo*, 1 (1908/9), 273-92; E. Cortese, *Appunti di storia giuridica sarda* (Milan: Giuffrè, 1964); G. Vismara, ‘Momenti di storia della famiglia sarda’, in *Famiglia e società sarda* (Milan: Giuffrè, 1971), pp. 181-203; A. Marongiu, *Saggi di storia giuridica e politica sarda* (Padova: CEDAM, 1975); A. Marongiu, ‘Il matrimonio “alla sardisca”’, *Archivio Storico Sardo di Sassari*, 7 (1981), 85-93; M.M. Satta, ‘Struttura familiare e modelli di trasmissione dell’eredità’, in A.M. Cecaro et al., *Donne e società in Sardegna: eredità e mutamento. Materiali e strumenti di ricerca* (Sassari: Iniziative culturali, 1989), pp. 59-78 (pp. 67-72); L. Garlati, ‘La famiglia tra passato e presente’, in S. Patti and M.G. Cubeddu, *Diritto della famiglia* (Milan: Giuffrè, 2011), pp. 1-48 (p. 10). The regime of common property of goods was also used in other areas of the Italian peninsula, such as Sicily. In this island, this custom was called *more Latinorum*. See Ungari, *Storia del diritto di famiglia*, pp. 70-71.

⁸⁸ See, for example, Art. XVIII, *Costituzioni di Modena*, in *Collezione completa*, p. 798, in which these institutions, aimed at giving a dowry to poor girls, are mentioned. See also Fano, *Archivio della Biblioteca Federiciana*, 1846, Documenti vari, where documents showed that many dowries were drawn to celebrate the

frequently. The ‘collocamento’ of a woman was fundamental to her family and a safeguard for society. Reaching a ‘collocamento onesto e decente’ was a mission giving prestige to the family, as well as being a real economic deal. As explained in a judicial proceeding from 1855, ‘onestà’ in a juridical sense meant honour, dignity and comfort:⁸⁹ a ‘collocamento onesto’ was the one having these characteristics. The ‘collocamento’ was important among all social classes, and often women who worked saved their money to constitute a dowry for themselves. The act of constitution of a dowry allowed women to be attractive on the marriage market and, at the same time, to keep safe the goods that were part of it, given that a dowry could not be freely spent – neither by their husbands nor by the women themselves – without the authorisation of a judge.⁹⁰

election to the papacy of pope Pius IX. See also D.I. Kertzer and W. Sigle, ‘The Marriage of Female Foundlings in Nineteenth-Century Italy’, *Continuity and Change*, 13/2 (1998), 201-20. In some cases, state lotteries were aimed at providing dowries, see M.C. Marcucci, ‘Le “zitelle” e il gioco del lotto a Fano (1857-1860)’, *Nuovi Studi Fanesi*, 10 (1995), 169-94. Dowries were sometimes constituted from the legacies of noblewomen, see L. Ferrante, M. Palazzi and G. Pomata, eds, *Ragnatele di rapporti. Patronage e reti di relazione nella storia delle donne* (Turin: Rosenberg and Sellier, 1988), in particular the chapters by L. Ferrante, ‘Patronesse e patroni in un’istituzione assistenziale femminile (Bologna sec. XVII)’, pp. 59-79; A. Groppi, ‘Una gestione collettiva di equilibri emozionali e materiali. La reclusione delle donne nella Roma dell’Ottocento’, pp. 130-47 (in particular, pp. 134-38); L. Guidi, ‘La “passione governata dalla virtù”: benefattrici nella Napoli ottocentesca’, pp. 148-65; M. D’Amelia, ‘La conquista di una dote. Regole del gioco e scambi femminili alla Confraternita dell’Annunziata (secc. XVII-XVIII)’, pp. 305-43; and I. Fazio, ‘La Signora dell’Oro. Carità femminile, potere e controllo sociale in una comunità siciliana tra Sette e Ottocento’, pp. 80-98. Despite its importance, a dowry was not a precondition for a woman to conclude a valid marriage. In this regard, the Decretum of Gratian (1075/80 –1145/47) stated that ‘nullum sine dote fiat coniugium’ (‘let there be no marriage without a dowry’), but, since the Middle Ages, jurists and glossators pointed out that the consent of the two spouses was the only condition required for a valid marriage. On marriage without dowry, see also Bellomo, *Ricerche sui rapporti patrimoniali*, p. 67; Bellomo, ‘Dote (diritto intermedio)’, *Enciclopedia del diritto*, p. 10; S. McDougall, ‘Women and Gender in Canon Law’, in J.M. Bennett and R. Mazo Karras, eds, *The Oxford Handbook of Women and Gender in Medieval Europe* (Oxford; New York: OUP, 2013), pp. 163-80 (in particular, pp. 166-67).

⁸⁹ See *Giornale del Foro ossia Raccolta di regiudicate romane e straniere*, 1 (1855), p. 89. See also B.P. Vicat, *Vocabularium juris utriusque*, 3 vols ([n.p.]: Ex officina Bousquetiana, 1759), II, p. 94, in which the term *honestum* stood for ‘decorum, conveniens honorique congruum est’.

⁹⁰ On this point, see I. Fazio, ‘Valori economici e valori simbolici. Il declino della dote nell’Italia dell’Ottocento’, *Quaderni storici*, 78 (1992), 291-317.

The return to the previous legal system and the new acts issued after the Restoration returned the Italian peninsula to the fragmented legal scenario of the past. In the Papal States for example, with the return of Pope Pius VII to his throne, women were again excluded from inheritance because of the dowry. The pope issued his first *motu proprio* on 16 July 1816: he explicitly affirmed that a dowry was to be equal to the legitime.⁹¹ The following *motu proprio*, that of 1824, stated that a dowry was simply to be ‘congrua’, appropriate, and ‘la misura della congruità si determina avuto riguardo alla condizione della famiglia, alle forze del di lei patrimonio, all’uso vigente nella medesima, ed alla consuetudine osservata nel luogo dalle altre famiglie di eguale condizione’.⁹² Hence, the dowry went from being equal to the legitime to having just the legal requirement of appropriateness, something which was difficult to define precisely, as the term ‘appropriate’ included a broad range of qualities. The *motu proprio*, issued in 1827, and the *Regolamento legislativo e giudiziario* of 1834, reiterated this principle.⁹³

The measure of ‘appropriateness’ can be inferred from a 1852 case, where a woman, called Umbellina Livi, entered into a legal dispute against her brothers.⁹⁴ In 1831 their father Francesco Livi died; nine years later, she asked for her dowry.⁹⁵ Although the family lived in Rome, where the children (two sons and four daughters) of the deceased had been educated, they were originally from Albano, a small town near the capital city of the Papal States. This town was also where the family had its assets. As her brothers wanted to give

⁹¹ The law enacted in the nineteenth century did not describe how the legitime was calculated. As we have seen, Roman law was used for topics not covered by these codifications. According to Novel 18, 1 of the *Novellae Constitutiones*, enacted by the Justinian from 534 until his death in 565, the *legitima portio*, or the portion of estates that could not be bequeathed by will, was a third of the deceased’s estate if there were four or fewer children, and half if there were more than four children.

⁹² Art. 117, *Moto proprio della Santità di Nostro Signore Papa Leone XII in data dei 5 ottobre 1824 sulla riforma dell’amministrazione pubblica della procedura civile e delle tasse dei giudizi* (Rome: Poggioli, 1824), pp. 22-23.

⁹³ Art. 20, *Regolamento legislativo e giudiziario per gli affari civili*, in *Collezione completa*, p. 876.

⁹⁴ *Giornale del Foro ossia Raccolta di regiudicate romane e straniere*, 2 (1853), 166-70 (p. 169). This case is described in more detail in S. Delmedico, ‘The Dowry in Mid-Nineteenth-Century Papal States: The Case of Umbellina Livi’, in E. Lung, G. Valera, C. Heath, eds, *Gender and Generations: Selected Papers of the Annual Conference of the International Society for Cultural History (ISCH) Trieste, 2016*, forthcoming.

⁹⁵ At the age of twenty-five, a woman was entitled to ask for her dowry. Art. 28, *Regolamento legislativo e giudiziario per gli affari civili*, in *Collezione completa*, p. 876.

her a 1,000-*scudo* dowry, as was customary in Albano, Umbellina appealed to the Sacra Rota, which ultimately decided that a dowry of 2,000 *scudi* was more appropriate.⁹⁶ The court explained that, in order to establish the amount of a dowry, the criterion to be used was the town where a family lived permanently and,

in tali giudizi, [...] la congruità della dote deve desumersi non da una certa misura dalla legge assegnata, per es. dalla legittima, ma dalle ricerche di fatto sul consueto di famiglie simili, sul decoro e sulla convenienza delle nozze contratte, e da altri elementi opportuni a determinare il ragionevole arbitrio dei giudici.⁹⁷

As the estate of their father amounted to 34,307 *scudi*, the *legittima portio* – calculated on the basis of Roman law – should have been roughly 3,000 *scudi* for each daughter. This means that the dowry established for Umbellina Livi was just two-thirds of the legitime.

Another case in point is that of Serafina Bonizi Poggi, a woman from Rome who claimed that her dowry was not ‘congrua’.⁹⁸ The daughter of a wealthy Roman merchant, Serafina had married an older man and had gone to live with him in Tolfa, a town in the countryside near Civitavecchia. She maintained that her 8,000-*scudo* dowry was not sufficient, and that as a consequence her social status had worsened. According to the court, ‘la parità della condizione [doveva] desumersi dall’opinione del paese e non dalla materiale forza dei rispettivi patrimoni’.⁹⁹ The Sacra Rota rejected her claim and argued that the daughter of a shopkeeper, although wealthy, who had married a landlord or a country merchant, had entered into a family of higher status than her own. She had also moved from Rome to the province, and this was not to be considered an unfavourable condition, as often even young Roman women preferred the province to a large city, because there, they were ‘contente di vivere nella affezione dei mariti, [di] occuparsi nella educazione della prole, riverite e salutate da tutti, mentre in Roma, in tanta abbondanza di signoria nostra e straniera sarebbero appena conosciute’.¹⁰⁰ Hence, a scant dowry could be compensated by being known and greeted, intangible goods which, in the opinion of the court, would make a

⁹⁶ On the prerogatives of the tribunal of the Sacra Rota or Ruota, see D. Bernini, *Il tribunale della S. Rota Romana* (Rome: Bernabò, 1717); K. Salonen, *Papal Justice in the Late Middle Ages: The Sacra Romana Rota* (London: Routledge, 2016).

⁹⁷ *Ibid.*, p. 167.

⁹⁸ *Giornale del Foro ossia Raccolta di regiudicate romane e straniere*, 1 (1854), 136-43 (p. 136).

⁹⁹ *Ibid.*, p. 136.

¹⁰⁰ *Ibid.*, p. 139.

woman content and fulfilled. A man, instead, needed ‘physical’ assets of the family’s patrimony such as money, lands and houses to be properly rewarded.

Another criterion to define the appropriateness of a dowry was the education that families gave their children and their ‘exterior display’, or how they used to dress and what their lifestyle was. In Serafina’s case, the bride’s father – even though wealthy – was ‘alieno dal lusso [e] conduceva la famiglia con una esibizione molto modesta’; consequently, the dowry did not need to be very opulent and she was to be content with the dowry she had received.¹⁰¹

In the Duchy of Modena, the *Costituzioni Estensi* of 1771, repealed at the time of Napoleon and again in force after his defeat, prescribed that daughters be excluded from the inheritance of their parents’ estate if they had brothers.¹⁰² Similar to the Papal States, they were entitled to an appropriate dowry and the concept of appropriateness was described as ‘corrispondente alla qualità della dotanda, e dello sposo, alle forze del patrimonio degli obbligati a dotare, e all’uso, e alla pratica della famiglia, e del luogo’.¹⁰³ Women’s legal status slightly improved with the 1851 Code, which stated that children could inherit their father’s and mother’s property without gender distinction. Nonetheless, the code pointed out that ‘se all’eredità concorrono maschi e femmine, la porzione di ciascun maschio deve superare della metà quella che tocca a ciascuna femmina; cosicchè la porzione del maschio stia a quella della femmina come tre a due’.¹⁰⁴

The situation in the Grand Duchy of Tuscany was similar to that of the other pre-unification states, where women were entitled only to receive a dowry. The Grand Duke Ferdinand III, in Article 6 of his *Legge sulle successioni intestate*, issued on 18 August 1814, ruled that daughters and other female offspring were excluded from inheriting from their male relatives.¹⁰⁵ The following article specified that women were also excluded from inheriting from their mother.¹⁰⁶ Although the inheritance portion of women was to be equal to the *legitima portio* of the inheritance of both parents, Article 36 allowed dowries lower than the *legitima portio*. But, in this case, other goods given to women to reach the amount

¹⁰¹ Ibid., p. 141

¹⁰² Art. I Tit. XXXIV, *Codice Estense*, in *Collezione completa*, p. 832.

¹⁰³ Art. I Tit. XIV, *Codice Estense*, in *Collezione completa*, p. 810.

¹⁰⁴ Art. 911, *Codice Civile per gli Stati Estensi* (Modena: Eredi Tipografi Reali, 1851), p. 194.

¹⁰⁵ Art. 6, *Legge sulle successioni intestate*, in *Collezione completa*, p. 897.

¹⁰⁶ Art. 7, *Legge sulle successioni intestate*, in *Collezione completa*, p. 897.

of the legitime had to be considered *bona extra dotalia*.¹⁰⁷ The distinction was that the dowry was to be secured against the husband's properties, and could be used only after a judge's authorisation; whereas the *bona extra dotalia* could be freely spent. In particular circumstances, a dowry could be higher than the legitime, without affecting the rights of other heirs. In a judgement delivered by the Regia Ruota Fiorentina in May 1817, for example, it was noted that a 3,000-*scudo* dowry was not overmuch if the father's assets were worth 25,000 *scudi*.¹⁰⁸ In this case, the children of the deceased were three sons and two daughters, with one of the daughters having already been dowered 37 years earlier. The court ruled that the dowry was not too high if 'l'età della dotanda è avanzata, quando il patrimonio è capace di sopportarla, e quando concorrono altre circostanze, che la dimostrano giusta'.¹⁰⁹ Given that the bride was no longer young, granting her a higher-than-usual dowry would have made her more attractive in the marriage market, allowing her to marry, which, as we saw, was the natural condition and primary goal of a woman.

In the Duchy of Lucca, the Napoleonic code remained in force also after the defeat of the French emperor. Yet, some parts of the code, such as those pertaining to family law conflicting with local customs, were modified by decrees. The *Decreto relativo alle successioni intestate*, promulgated by the Duchess Maria Luisa of Bourbon on 22 November 1818, repealed some articles of the Napoleonic code concerning inheritance, and Articles 55 to 71 of chapter IX, *Della dote, e degli altri compensi dovuti alle Femine*, stated that daughters were excluded from the *ab intestato* inheritance of their fathers, but could succeed to their mothers dying intestate.¹¹⁰ The only right to which they were entitled was a dowry equal to the legitime, calculated according to parameters set out in Roman law. If daughters had already been provided with a dowry higher than the legitime, it should not be reduced unless it affected the interests of other offspring; if it was lower, daughters could ask for an addition.

In the Kingdom of Sardinia, King Carlo Emanuele III promulgated the *Regie Costituzioni* in 1770 and confirmed the dowry as the only right of women over parental

¹⁰⁷ Artt. 32-47, *Legge sulle successioni intestate*, in *Collezione completa*, p. 897.

¹⁰⁸ *Decisioni del Foro Toscano inedite dall'anno 1815, all'anno 1819*, ed. by L. Cantini and D. Nenci, 5 vols (Florence: Stamperia del Giglio, 1824), III, pp. 303-13.

¹⁰⁹ *Decisioni del Foro Toscano*, p. 311.

¹¹⁰ Artt. 12-22 and Artt. 55-71, *Decreto relativo alle successioni*, in *Collezione completa*, pp. 942 and 944-45.

inheritance.¹¹¹ After the Congress of Vienna, the *Regie Costituzioni* were reinforced, as had happened with the law of other states of the Italian peninsula. Then, in 1827, King Carlo Felice promulgated the *Leggi civili del Regno di Sardegna*. This code, however, was in force in the isle of Sardinia only.¹¹² In 1837, King Carlo Alberto promulgated the Civil Code of the Kingdom of Sardinia, which permitted all legitimate children or their descendants to succeed in the inheritance of their father, mother and any other relative,¹¹³ even if the constitution of dowry was still contemplated.¹¹⁴ Article 943 declared that:

trattandosi di successione al padre od altro ascendente paterno maschio la porzione di successione che spetterebbe alla femmina o suoi discendenti, eredi e non della medesima, sarà devoluta a titolo di subingresso [...]. Tale subingresso non avrà però luogo che in favore di que' fratelli e discendenti da essi, che saranno in grado di conservare la famiglia, e per la circostanza del proprio stato propagarla.¹¹⁵

¹¹¹ The 'Leggi e Costituzioni di Sua Maestà il Re di Sardegna' were promulgated by Vittorio Amedeo II of Savoy in 1723 and 1729. King Carlo Emanuele III reworked these laws and promulgated a new version of these *Regie Costituzioni* in 1770.

¹¹² To be enforced in the isle of Sardinia, edicts of Piedmontese monarchs needed to undergo a separate enactment. The eighteenth-century *Regie Costituzioni*, too, were enforced with the edict of 15 January 1770. See A. Lattes, 'Le leggi civili e criminali di Carlo Felice pel Regno di Sardegna', in C. Sole, ed., *La Sardegna di Carlo Felice e il problema della terra* (Cagliari: Editrice sarda Fossataro, 1967), pp. 403-509 (p. 409). On this point see also P. Grossi, 'Per la storia della legislazione sabauda in Sardegna: il Censore dell'agricoltura', *Annali della Facoltà Giuridica dell'Università di Macerata*, 26 (1963), 197-240 (pp. 201-03); F. Aimerito, *La codificazione della procedura civile nel Regno di Sardegna* (Milan: Giuffrè, 2008), pp. 151-53. For an overview on law in the island of Sardinia, see G. Astuti, 'Gli ordinamenti giuridici degli Stati Sabaudi', in D. Gribaudo, ed., *Storia del Piemonte* (Turin: Casanova, 1960), pp. 487-562; A. Mattone, 'Assolutismo e tradizione statutaria. Il governo sabauda e il diritto consuetudinario del Regno di Sardegna (1720-1827)', *Rivista storica italiana*, 116/3 (2004), 926-1007.

¹¹³ Art. 931, *Codice civile per gli Stati di S. M. il Re di Sardegna in Collezione completa*, p. 651. The king of Sardinia Carlo Alberto (1798-1849) started working on codification just a month after his accession to the throne (1831-1849). The Civil Code of the Kingdom of Sardinia was promulgated on 1837 and incorporated many aspects of the Napoleonic Code. See G.S. Pene Vidari, 'L'attesa dei codici nello Stato Sabauda della Restaurazione', *Rivista di storia del diritto italiano*, 68 (1995), 107-52 (p. 127). This code was extended to the island of Sardinia with a decree on 20 November 1847. See Soresina, *L'età della Restaurazione*, p. 26.

¹¹⁴ Art. 1517, *Codice civile per gli Stati di S. M. il Re di Sardegna in Collezione completa*, p. 665.

¹¹⁵ Art. 943, *Codice civile per gli Stati di S. M. il Re di Sardegna, in Collezione completa*, p. 673. The terms 'in ragione del proprio stato' meant that if they were priests or interdicted they were not allowed to take over the *subingresso*.

It is worth noting the use of the terms ‘conservare’ and ‘propagare’, that is, to ‘preserve’ and ‘propagate’, which are substantially the same words used in the eighteenth-century *Costituzioni* of the Kingdom of Sardinia, underlying, once again, that family was crucial to Italian society, as was its conservation.¹¹⁶ I shall return to the Kingdom of Sardinia in the following chapters.

Along the entire peninsula, only three codes admitted all children to succeed to their parents equally, regardless of gender. These were the *Codice per lo Regno delle Due Sicilie*, promulgated by Ferdinand, King of the Two Sicilies, on 26 March 1819;¹¹⁷ the *Codice per gli Stati di Parma, Piacenza e Guastalla*,¹¹⁸ promulgated by Duchess Maria Luigia in 1820; and the *Codice civile universale austriaco pel Regno Lombardo-Veneto*, the Italian version of the 1811 *Allgemeines Bürgerliches Gesetzbuch (ABGB)*,¹¹⁹ introduced in Lombardy-Venetia on 1 January 1816. These three codes still provided the constitution of dowry,¹²⁰ which, however, was just to be considered as an advance on paternal inheritance.

With the exception of Lombardy-Venetia, the law also debarred women from making contracts and managing their assets, hence subjecting them to men in every aspect of their lives. Ideas of women’s weak-headedness, as we saw in Chapter 2, contributed to shape the commonly held opinion according to which they were unable to deal with money

¹¹⁶ The ‘subingresso’ was the right to take over the hereditary portion from a woman, who was compensated with a portion of inheritance equal to the legitime. Art. 945, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 673.

¹¹⁷ Art. 667, *Codice per lo Regno delle Due Sicilie*, in *Collezione completa*, p. 274.

¹¹⁸ Art. 837, *Codice civile per gli stati parmensi*, in *Collezione completa*, p. 422.

¹¹⁹ Artt. 730-734, *Codice civile universale austriaco pel Regno Lombardo-Veneto*, in *Collezione completa*, p. 187. For an overall discussion on the ABGB, see Grossi, *A History of European Law*, pp. 90-93. On the influence of the ABGB on the elaboration of other nineteenth-century laws of the Italian peninsula, see E. Dezza and P. Caroni, eds, *L’ABGB e la codificazione asburgica in Italia e in Europa: atti del Convegno internazionale, Pavia, 11-12 ottobre 2002* (Padua: CEDAM, 2006); E. Dezza, *Lezioni di storia della codificazione civile: il Code civil (1804) e l’Allgemeines Bürgerliches Gesetzbuch (ABGB, 1812)* (Turin: Giappichelli, 1998). For a discussion on the ABGB regarding women’s legal status, see M.R. Di Simone, ‘La donna nella storia del diritto austriaco: tradizione e innovazione tra medioevo e Settecento’, in A.C. Amato Mangiameli, ed., *Donne tra storia e politica* (Turin: Giappichelli, 2012), pp. 24-43; M.R. Di Simone, ‘La condizione giuridica della donna nell’ABGB’, *Historia et ius*, 9 (2016), paper 3, 1-29.

¹²⁰ Art. 1353, in *Codice per lo Regno delle Due Sicilie*, in *Collezione completa*, p. 314; Art. 1329, in *Codice per gli Stati di Parma, Piacenza e Guastalla*, in *Collezione completa*, p. 449; Art. 1218, *Codice civile universale austriaco pel Regno Lombardo-Veneto*, in *Collezione completa*, p. 214.

and contracts. These preconceived ideas were deeply rooted in the entire Italian peninsula (even in areas where women could administer their own wealth), and explained why women needed to be authorised if they wanted to make any kind of contract. Depending on the state in which it was required, this authorisation was to be given by their husband, or by their father, or by a male relative, and/or by the judge. This authorisation had been in force since ancient times and was confirmed by medieval statutes, even though with varying harshness.¹²¹ With the introduction of the Napoleonic code in the conquered Italian territories, authorisation to make contracts became merely marital, and, therefore, affected married women alone. As such it generally improved women's agency for a few years.¹²²

By the time of the Restoration – and the consequent return to previous laws – women again needed an authorisation, not just from their husbands. Art. 52 of the Pope's *Regolamento Legislativo e Giudiziario per gli affari civili*, for example, associated women to 'pupilli, minori, interdetti', and stated that their contracts were valid only after the approval of a judge.¹²³ The *ratio* of this provision was effectively described in a judgement made by the tribunal of the Sacra Rota in 1859. This case was about a woman, a subject of the Pope, who signed a bill of exchange while she was in France. As she did not want to pay the sum back, she was sued by her creditor. The Roman judges ruled against the creditor and maintained that if women subjects of the Papal States were allowed to go abroad and make contracts without the due formalities,

le patrie leggi, che loro vietano di contrattare, potrebbero essere assai facilmente fraudate [e per una donna che] voglia spendere in vanità ed in capricci tutto il suo patrimonio basterebbe andare per poco tempo all'estero, ed ivi contrarre tutte quelle obbligazioni che vuole, e delle quali dovrebbero i giudici del nostro Stato ordinare la esecuzione.¹²⁴

¹²¹ See, V. Crescenzi, 'L'autorizzazione maritale e il problema storico della capacità della donna coniugata di disporre dei propri beni', in F.L. Pacheco Caballero, ed., *Mujeres y derecho. Una perspectiva histórico-jurídica. Encuentro de historiadores del derecho. Actas* (Barcelona: Associació Catalana d'Història del Dret, 2015), pp. 127-85. For a nineteenth-century overview on this authorisation, see *Giurisprudenza del codice civile*, 2 (1839), 89-110.

¹²² Artt. 215-223, in *Codice Civile del Regno d'Italia*, in *Collezione completa*, p. 13.

¹²³ Art. 52, *Regolamento Legislativo e Giudiziario per gli affari civili*, in *Collezione completa*, p. 878.

¹²⁴ *Giornale del Foro, raccolta di regiudicate romane e straniere*, 1 (1859), 248-50.

Ideas about women's weak-headedness could also be inferred in a similar case brought before the court of Genoa in 1856,¹²⁵ in which a woman, Clelia Massone, renounced her paternal inheritance.¹²⁶ The case revolved around the point that formalities required for such an act had not been correctly fulfilled. The tribunal ordered that Clelia should ask for the required authorisation, because 'i diritti, di cui la medesima pretese riservarsi lo esperimento, possono essere stati da una donna facilmente scambiati con quelli che le erano riservati dalla legge'.¹²⁷ The situation was similar in the entire peninsula, with the exception of Lombardy-Venetia where there were no such rules, and women could freely administer their own assets.¹²⁸ As we shall see later, when the Pisanelli code was enacted in 1865, marital authorisation became required in Lombardy-Venetia as well, thus considerably worsening the legal status of women in this area.¹²⁹

Women's juridical status as subordinate to men was broadly accepted in most pre-Unification states. However, Italian society was slowly changing. The French Revolution and the nineteenth-century upheavals of the Risorgimento led to the participation of several

¹²⁵ Art. 1211, *Codice civile per gli Stati di S. M. il Re di Sardegna* (Turin: Stamperia reale, 1837), p. 328. This code explicitly ruled that married women needed authorisation. However, given that in the Kingdom of Sardinia, children were under the *potestas* of their father or grandfather until a formal act of emancipation was made, it derives that women were not freely able to undertake any legal act, even though of age. See Artt. 210-211, *Codice civile per gli Stati di S. M. il Re di Sardegna*, p. 60.

¹²⁶ *Giurisprudenza degli Stati Sardi*, 6 (1856), 543-45.

¹²⁷ *Ibid.*, p. 544.

¹²⁸ For nineteenth-century legal discussions over marital authorisation after Unification, see A. Vescia, 'Se l'autorizzazione maritale sia necessaria alla moglie il cui marito è inabilitato', *Archivio giuridico*, 38 (1887), 33-43; A. Scevola, *L'autorizzazione maritale ed il mandato conferto dalla moglie al marito* (Turin: Unione Tipografico-Editrice, 1888); E. Bianchi, 'La inabilitazione e l'assenza del marito in materia di autorizzazione maritale, osservazioni sull'art. 135 N.º 1 del Codice civile italiano', *Archivio giuridico*, 40 (1888), 552-66. For a study on marital authorisation and the path towards its abolition, see M Fioravanzo, 'Sull'autorizzazione maritale. Ricerche attorno alla condizione giuridica della donna nell'Italia unita', *Clio: rivista trimestrale di studi storici*, 30 (1994), 641-725. See also G. Galeotti, 'L'autorizzazione maritale nel primo codice civile unitario: un istituto "estraneo" alla tradizione italiana?', *Dimensioni e problemi della ricerca storica*, 2 (2005), 155-82.

¹²⁹ Against the institution of marital authorisation, the only known protest made by women was the petition of *female citizens* to extend the rights enjoyed by women of Lombardy-Venetia to all the women of the new Kingdom of Italy. See M. Fugazza, 'Il lungo cammino dei diritti', in E. Bruni, P. Foglia and M. Messina, eds, *La donna in Italia: 1848-1914: unite per unire* (Cinisello Balsamo: Silvana, 2011), pp. 67-78 (p. 67).

strata of society and raised the demand for more democratic and inclusive institutions. Moreover, women, too, got involved and their participation did not go unnoticed. The need for new legal norms might have somehow emerged and been strongly perceived, if, during the short life of the 1849 Roman Republic, the Commissione Provvisoria di Governo dello Stato Romano prohibited the constitution of the dowry, repealed the exclusion of women from *ab intestato* inheritance, and enabled women who were of age to make contracts without any formality. However, the Commissione Provvisoria also confirmed that married women could not enter into obligations without the permission of their husbands.¹³⁰ These few improvements did not last long. When the Pope returned to power, he repealed these norms and the Papal States returned to their previous legal system, which remained unchanged until the Unification of Italy.

4. Women and civil rights before Unification

The codes and statutes of pre-unification Italy rarely took women into account outside the sphere of family law. Often women were not even mentioned as entitled to vote or not.¹³¹ Among the various statutes issued in the 1840s, the Tuscany election law of 3 March 1848 was the only one explicitly to exclude women.¹³² Conversely, Article 24 of the Albertine Statute stated that ‘tutti i regnicoli [...] godono ugualmente i diritti civili e politici e sono ammissibili alle cariche civili e militari, salvo le eccezioni determinate dalla legge’.¹³³ The *Statuto fondamentale pel governo temporale degli Stati della Chiesa*, conceded by Pope Pius IX, gave subjects a weak representation indicating the amount of wealth or the profession required to vote, but it did not state the sex of potential voters. Similarly, the

¹³⁰ Artt. 11, 12, 16, 58, *Raccolta delle leggi, decreti, ordinanze e regolamenti del governo dello stato romano* (Bologna: Tocchi, 1849), pp. 67 and 70.

¹³¹ In the eighteenth and nineteenth centuries, providing women with civil rights was not the object of many debates. The common opinion was that a woman who voted, ‘non solo mostrerebbe una completa imperizia, ma il suo stesso decoro sarebbe in continuo contrasto con le passioni che l’agiterebbero maggiormente’ (Stella, ‘Alcune considerazioni sulla minore responsabilità penale della donna’, p. 81).

¹³² Art. 8, *Raccolta delle leggi del 3 marzo e 26 aprile 1848 e successive 15 e 16 luglio 1859 per la formazione delle liste elettorali* (Florence: Stamp. Governativa, 1859), p. 19.

¹³³ Art. 24, *Statuto del Regno di Sardegna, 4 marzo 1848* (Padua: Salmin, 1866), p. 10.

Costituzione della Repubblica Romana, approved on 3 July 1849, introduced universal suffrage, specifying the requirement to be voters and eligible citizens.¹³⁴ In particular, Article 17 stated that ‘ogni cittadino che gode i diritti civili e politici a 21 anni è elettore, a 25 è eleggibile’.¹³⁵ Although these three statutes made generic references to subjects and citizens, there was no claim or doubt that they meant to address only men:¹³⁶ women, as we saw in Chapter 1, were not included in the notion of citizenship, and their exclusion was unquestionable.

At the municipal level, Article 12 of the *Decreto sull’ordinamento de’ municipj*, issued during the Roman Republic on 31 January 1849, specified that charities were allowed to vote. As these bodies had an interest in the civic life of a town, they were deemed to be worthy of expressing their ideas. The same article, however, explicitly excluded charities led by women.¹³⁷ Furthermore, Article 14 of the *Regolamento comunale* – issued in the Grand Duchy of Tuscany on 20 November 1849 – ordered that women, like minors and interdicted people, exercised their right to vote through those who represented them, either upon law or by mandate.¹³⁸ It is difficult to understand if they effectively exercised this right, but this article might indicate that the male adult, namely the *paterfamilias*, who represented women, minors and interdicted people, was to abstractly exercise the vote of his entire family.

In Lombardy-Venetia, women who had sufficient wealth were able to designate their representatives in municipalities, and could also be elected through a representative.¹³⁹ The *Patente sovrana 12 aprile 1816 N. 45* at its Article 68 ruled that:

¹³⁴ Artt. 16-20, in C. Rusconi, *La Repubblica romana del 1849*, 2 vols (Turin: Cassone, 1850), II, p. 126.

¹³⁵ Costituzione della Repubblica Romana, Tit. III Art. 17, in *Raccolta delle leggi, decreti, ordinanze e regolamenti del governo dello Stato Romano*, 3 vols (Bologna: Tiochi, 1849), I, p. 47.

¹³⁶ On this point, see also R. Romanelli, ‘Electoral Systems and Social Structures. A Comparative Perspective’, in R. Romanelli, ed., *How Did They Become Voters? The History of Franchise in Modern European Representation* (The Hague and London: Kluwer Law International, 1998), pp. 1-36 (pp. 21-22).

¹³⁷ Art. 12, *Decreto sull’ordinamento de’ municipj*, 31 gennaio 1849, Tit. III, Della formazione della rappresentanza comunale, in *Raccolta delle leggi, decreti, ordinanze e regolamenti del governo dello Stato Romano*, I, p. 48.

¹³⁸ E. Repetti, *Compendio storico della città Firenze, sua comunità, diocesi e compartimento fino all’anno 1849* (Florence: Tofani, 1849), p. 402.

¹³⁹ N. Danelon Vasoli, *Il plebiscito in Toscana nel 1860* (Florence: Olschki, 1968), pp. 109-10; M. Meriggi, *Milano borghese: circoli ed élites nell’Ottocento* (Venice: Marsilio, 1992), p. 199; G. Galeotti, *Storia del voto*

le donne, i pupilli, i minori, gl'interdetti, come ancora i luoghi pii, collegi università ed in generale qualunque stabilimento pubblico intestato nelle tavole del censo [...] può essere eletto deputato, ed il procuratore od amministratore che lo rappresenta non debbe avere alcuna delle eccezioni personali indicate nello stesso capitolo primo.¹⁴⁰

It should be noted, however, that this provision was enforced in small municipalities only. With regard to larger towns, Article 37 of the same *Patente* clearly pointed out that ‘non sono proponibili ai consigli comunali [...] i pupilli, i minori, le donne, gl'interdetti’.¹⁴¹ Women could exercise these rights when pupils, minors and interdicted were also allowed to do so, thus confirming that this was not an acknowledgement of women’s equality but a prominence given to wealth, the *substancia* which after five centuries still informed the legal system.

In the Italian peninsula, some demands for civil rights were first made at the time of the plebiscite for annexation to Piedmont. Women expressed their involvement in the Italian cause, as well as their desire to effectively participate, through messages addressed to the king of Sardinia; by setting up separate ballot boxes in private homes; or by casting their vote at meetings of men, and even in the same polls.¹⁴²

alle donne in Italia: alle radici del difficile rapporto tra donne e politica (Rome: Biblink, 2006), p. 25.

¹⁴⁰ *Atti del governo di Lombardia. Parte prima dal 1° gennajo al 30 giugno 1816* (Milan: Imperiale Regia Stamperia, 1816), p. 252.

¹⁴¹ *Ibid.*, pp. 244-45.

¹⁴² A. Alessandrini, *I fatti politici delle Marche dal 1 gennaio 1859 all'epoca del plebiscito* (Macerata: Libreria editrice Marchigiana, 1910), p. 398. See also Fruci, ‘Cittadine senza cittadinanza’; G.L. Fruci, ‘Il sacramento dell’unità nazionale: linguaggi, iconografia e pratiche dei plebisciti risorgimentali (1848-70)’, in Banti and Ginsborg, eds, *Storia d’Italia*, pp. 567-605. Two cases of women being allowed to vote for their merits are known. They were the eighteen-year-old poetess of Recanati, Maria Alinda Bonacci, who was allowed to vote for artistic merits, and Marianna De Crescenzo, called La Sangioannara, a tavern-keeper of Monte Calvario a Napoli, who actively participated in the upheavals of 1848. See G.L. Fruci, ‘Alle origini del momento plebiscitario risorgimentale (1797-1870)’, in *Verso l’unità: conferenze e laboratori didattici organizzati con la collaborazione della Domus Mazziniana: Pisa, ottobre - novembre 2010* (Ospedaletto: Pacini, 2011), pp. 43-56 (pp. 46-47). Marc Monnier in his work on Garibaldi (1861) reported that La Sangioannara ‘a tout un quartier sous ses ordres’, and, having fought as a soldier ‘[elle] a obtenu de voter comme un citoyen’. M. Monnier, *Garibaldi: histoire de la conquête des Deux-Siciles* (Paris: Lévy frères, 1861), p. 371. See also M. Varriale, *Dizionario biografico degli italiani*, 90 (Treccani), s.v. Marianna De Crescenzo, forthcoming.

5. The Unification of Italy

The Unification of Italy under the rule of King Vittorio Emanuele II implied that the law in force in the Kingdom of Sardinia was extended to the entire peninsula. On 25 April 1859, shortly before the Unification, the Piedmontese parliament gave the government full legislative and executive powers, which paved the way for a new phase of legal codification ending with the approval and publication of three new codes on 20 November 1859: the criminal code, the criminal procedure code and the civil procedure code.¹⁴³ On the same day, Law n. 3788 was approved, and stated that the government would submit to the parliament a bill to unify the law in new and old provinces of the kingdom.¹⁴⁴ Immediately after Unification, a committee chaired by Vincenzo Miglietti began to work on a new code in consultation with jurists and judges. The project started with the revision of the Kingdom of Sardinia Civil Code, and was presented by Minister of Justice Giovan Battista Cassinis to Parliament in June 1860.¹⁴⁵ A second draft was presented by Miglietti, who became the new Minister of Justice. In the meantime, Law n. 2248 on municipal and provincial government was approved on 20 March 1865: Article 26 stated that women were explicitly excluded from the electorate.¹⁴⁶ Finally, the new Minister of Justice, Giuseppe Vacca, submitted another draft of the civil code to the parliament which, after various amendments by legislative committees, became law on 25 June 1865, with Decree n. 2358. The Civil Code for the Kingdom of Italy entered into force on 1 January 1866.¹⁴⁷

The path towards the drafting and promulgation of the Civil Code for the Kingdom of Italy, far from being a smooth process, was preceded ‘da un processo di unificazione giuridica in cui il discorso sulla condizione giuridica della donna non è affrontato’,¹⁴⁸ and did not introduce significant innovations. The Pisanelli Code, named after Giuseppe

¹⁴³ These three codes were promulgated with the *Regi Decreti* 3783, 3784, and 3786.

¹⁴⁴ A. Aquarone, *L'unificazione legislativa e i codici del 1865* (Milan: Giuffrè, 1960), p. 3; F. Santoro-Passarelli, *Libertà e autorità nel diritto civile: altri saggi* (Padua: CEDAM, 1977), pp. 13-26.

¹⁴⁵ See S. Solimano, *Il letto di Procuste: diritto e politica nella formazione del Codice civile unitario. I progetti Cassinis (1860-1861)* (Milan: Giuffrè, 2003); Passaniti, *Diritto di famiglia*, pp. 210-22.

¹⁴⁶ A. De Sterlich, *Annotazioni alla legge sull'amministrazione comunale e provinciale del 20 marzo 1865* (Naples: Trani, 1865), p. 170.

¹⁴⁷ On the path towards the promulgation of the Pisanelli code, see Passaniti, *Diritto di famiglia*, pp. 229-67.

¹⁴⁸ *Ibid.*, p. 205.

Pisanelli, the Minister of Justice, who had a major role in its drafting (even though he was no longer serving in that office at the time of its promulgation), was largely based on the contents and structure of the Napoleonic Code: while it abolished the right of males to succeed before females in *ab intestato* inheritances,¹⁴⁹ and introduced an age limit to parental *potestas* over their children, the 1865 code maintained the usual hierarchical order by which women were subjected to men. Moreover, marital authorisation was reinforced, and also extended to the former Lombardy-Venetia, where a similar institution had existed only before the Restoration.¹⁵⁰

According to the Pisanelli Code, both sons and daughters became of age at 21.¹⁵¹ If they wanted to marry, they were obliged to ask for parental consent until the age of 25 in the case of men, 21 in the case of women.¹⁵² One can argue that this distinction was made because rulers still had in mind the concept of women entering other families, ‘*aliene famiglie*’,¹⁵³ and men being invested with the fundamental mission to preserve their *famiglia*: hence, for men, the choice of a marriage had to be more carefully evaluated than for women. The jurist Domenicantonio Galdi, in his commentary to the *Codice civile del Regno d’Italia*, explained that this was due to ‘il maggior favore col quale devonsi facilitare i matrimoni delle femmine [...] sul riflesso che per la femmina lo stato matrimoniale è non solo naturale, ma in certa guisa una necessità sociale’.¹⁵⁴ Like the Napoleonic Code, the Pisanelli code ruled that if parents did not share the same view about the marriage of their children, the father’s prevailed.¹⁵⁵ Against denied permission, children could appeal to a court.¹⁵⁶ The report of the Minister of Justice that accompanied the publication of the Civil Code explained that it was important to give a daughter the chance to state her case before a court if a denied paternal consent could ‘per avventura rapire alla figlia una propizia

¹⁴⁹ Art. 736, *Codice civile del Regno d’Italia: corredato della relazione del Ministro Guardasigilli fatta a S. M. in udienza del 25 giugno 1865* (Turin: Botta, 1865), p. 228.

¹⁵⁰ Artt. 134-137, *Codice civile del Regno d’Italia* (1865), p. 28.

¹⁵¹ Art. 323, *Codice civile del Regno d’Italia* (1865), p. 63.

¹⁵² Art. 63, *Codice civile del Regno d’Italia* (1865), p. 14.

¹⁵³ G.M. Negri, *Dei difetti del Codice Civile Italiano, che porta il titolo di Codice Napoleone e dei pregi del Codice Civile Austriaco* (Vicenza: Parise, 1815), p. 77.

¹⁵⁴ *Codice civile del Regno d’Italia*, ed. by D. Galdi (Naples: Marghieri and Perrotti, 1865), pp. 148-49.

¹⁵⁵ *Ibid.*

¹⁵⁶ Art. 67, *Codice civile del Regno d’Italia* (1865), p. 14.

occasione’,¹⁵⁷ highlighting, once again, the presumed importance of marriage to a woman. Interestingly, the report added that this opportunity was given to both sons and daughters, because:

Riconosciuto il diritto del richiamo all’autorità giudiziaria nella figlia[,] fu equo provvedimento il parificare nello esercizio di questo diritto la condizione del figlio maschio, [altrimenti] non si saprebbe intendere il perché della differenza tra i due sessi.¹⁵⁸

As we can infer from these words, the different juridical status of men and women was not perceived as discrimination. Consent to marriage was considered crucial by people: in a 1872 dissertation on parental *potestas* drawn up by a law student, this point is made clear:

Benissimo fece il nostro legislatore a riprodurre la legge Giustiniana discostandosi così dal Diritto Canonico onde evitare il più possibile i matrimoni inconsiderati e perché non si addivenga ad un atto così solenne, spinto solo dal valore di violenta passione.¹⁵⁹

In the Napoleonic Code, before contracting marriage, children of age were also required to demand the advice of their parents through a respectful and formal act known as ‘atti rispettosi’.¹⁶⁰ These ‘atti rispettosi’ were no longer required by the Pisanelli Code. Both in the Napoleonic and the Pisanelli codes, the institution of dowry was contemplated, but not mandatory. Given that according to these codes daughters were able to inherit in the same way as sons, the dowry did not replace women’s rightful share any longer. This implied that even though a dowry was still important, not having one slowly became socially acceptable.¹⁶¹ Moreover, as Valerio Pocar and Paola Ronfani attest, in the new civil code, ‘la famiglia come tale non era considerata un soggetto di diritto’,¹⁶² thus giving more value

¹⁵⁷ The report was written by Giuseppe Pisanelli, who, as we saw, was not justice minister anymore at the time of the enactment of the code. *Codice civile del Regno d’Italia* (1865), p. XVIII. On the debate on women’s legal status, see M.R. De Simone, ‘Le discussioni sui diritti delle donne per il Codice civile unitario’, in S. Borsacchi and G.S. Pene Vidari, eds, *Avvocati protagonisti e rinnovatori del primo diritto unitario* (Bologna: Il Mulino, 2014), pp. 95-121.

¹⁵⁸ *Codice civile del Regno d’Italia* (1865), p. XVIII.

¹⁵⁹ A. Galeotti, *La patria potestà: tesi di laurea del dott. Amilcare Galeotti* (Siena: Lazzeri, 1872), p. 56.

¹⁶⁰ Art. 151, in *Codice Civile del Regno d’Italia*, p. 10.

¹⁶¹ See Fazio, ‘Valori economici e valori simbolici. Il declino della dote nell’Italia dell’Ottocento’.

¹⁶² V. Pocar and P. Ronfani, *La famiglia e il diritto* (Rome: Laterza, 1998), p. 14.

to the individual. Nevertheless, the idea that the family had influence as a body was still considered in the 1889 criminal code, *Il codice penale per il Regno d'Italia*, when dealing with crimes against 'il buon costume e dell'ordine delle famiglie', such as adultery and infanticide.¹⁶³

The Pisanelli Code, while refining the uncertainties and contradictions of the existing bulk of laws, did not take into account the social ferments that had been in place in Italy since the early decades of the Ottocento. Immediately after the Restoration, governments had to deal with a number of forces that coexisted in the Italian peninsula, but at the end of the century these contrasts had even sharpened. New ambitions and old prerogatives were emerging, and new social classes were rising and seeking their place in society. After the Italian Unification, the state was forced to set up a relationship with new ideas and expectations, and, then, to face the agricultural crisis and the transition towards industrialisation, with the various social, cultural and psychological issues that these changes brought along.¹⁶⁴ Despite women's increased participation in Italian society, especially in the labour market, women's contribution had no influence on the drafting of the new code, and relations within the family were still strongly balanced towards husbands' authority, and, as Paolo Passaniti argued, 'alla fine anche un genitore è di troppo'.¹⁶⁵ With the exception of inheritance rights, women's status remained basically unchanged: the dichotomy obedience/protection within marriage and women's subaltern position were reaffirmed. The former Kingdom of Sardinia unified the country from a political and juridical perspective, and tried to build an identity going beyond a mere imagined community. However, while creating the nation Italy, and aiming at 'fare gli italiani', once again, lawmakers neglected the 'italiane'.¹⁶⁶

¹⁶³ Artt. 331-363, in *Il codice penale per il Regno d'Italia*, ed. by G. Crivellari (Rome: Unione Tipografica, 1889), pp. 123-33.

¹⁶⁴ Grossi, 'Assolutismo giuridico e diritto privato nel secolo XIX', p. 16.

¹⁶⁵ Passaniti, *Diritto di famiglia*, p. 213.

¹⁶⁶ The well-known expression 'fatta l'Italia bisogna fare gli Italiani' is among the stereotypes of national rhetoric: it indicates the strong desire to build a nation and, at the same time, the difficulties such a process implied. See S. Soldani, *Introduzione*, in S. Soldani and G. Turi, eds, *Fare gli italiani: scuola e cultura nell'Italia contemporanea* (Bologna: Il Mulino, 1993), pp. 9-34 (pp. 17-25). See also A.M. Banti, *Il Risorgimento italiano* (Rome: Laterza, 2004), pp. 221-22, documento 45.

Part 2

Women and Marriage between Civil, Criminal and Canon Law: The Cases of the Kingdom of Sardinia and Lombardy-Venetia

Chapter 4

Women and men beyond marriage

If women and men were imagined to belong to strictly separate spheres, that is, the public and the private, the law, instead, permeated and intruded on every aspect of people's lives. The extent of its intrusiveness could be inferred from matters regarding the very intimate sphere of a person, such as personal relations between men and women. The law, and the authorities responsible for its enforcement, exerted their influence over people's behaviour and attitudes, and even ruled against situations which were beyond the established and desirable social order.

The first section of this chapter is devoted to the marriage promise, and describes its importance in society, both for the betrothed and their families, given that a broken promise could even be interpreted as an offence to honour, a concept which, alongside morality, was shaped and valued by the Church and by society. This meant that sexual intercourse outside the marriage bond was not looked upon kindly, often even forbidden, and deemed to cause 'disordine' or cast a lifelong moral stigma on those involved. The second and third sections of the chapter are dedicated to seduction and extramarital relations: the former is useful to the analysis as it was deemed to be strictly related to infanticide; the latter because it was considered a major challenge to society's order.

This chapter aims to shed light on the authorities' attitude towards these issues in the Kingdom of Sardinia and in Lombardy-Venetia. As we shall see, ideas and behaviours were similar in both states and strongly influenced people's attitude towards morality and marriage, with canonical impediments intertwining with secular laws.

1. The promise to marry

As we saw in the previous chapter, the Catholic Church had jurisdiction over non-patrimonial matters regarding marriage. Even though the states of the Italian peninsula had their own laws, formalities for engagement, marriage and its dissolution were prescribed by ecclesiastical authorities. From the early Middle Ages to the nineteenth century and beyond,

the Church's jurisdiction and decisions of its courts had effects beyond its secular state's boundaries.

Although, as Diego Quaglioni argues, 'non si possa acconsentire alla schematica opposizione di un matrimonio formale, che nascerebbe solo con Trento e col decreto *Tametsi*, a un matrimonio aformale, che sarebbe il matrimonio medievale',¹ the Council of Trent undoubtedly represented a turning point. On this occasion, among other matters, the Church reorganised and formally settled its rules concerning marriage, thus strongly reaffirming that its rules were the *rules*, to be observed and complied with. From 1563 onwards, marriage, which up to that moment had been a pact between two individuals able to give consent, had to abide by the rules prescribed by the Council's Canons. Chapter I of its twenty-fourth Session, the decree known as *Tametsi*, adopted on 11 November 1563, declared that a marriage was valid only if concluded in the presence of a priest, *in facie ecclesiae* (before the church).² Conversely,

Qui aliter, quam praesente parochi, vel sacerdote, de ipsius parochi seu ordinarii licentia, et duobus vel tribus testibus, matrimonium contrahere attentabunt, eos sancta synodus, ad sic contrahendum omnino inhabiles reddit, et hujusmodi contractus irritos et nullos esse decernit, prout eos praesenti decreto irritos facit, et

¹ D. Quaglioni, "'Sacramenti detestabili". La forma del matrimonio prima e dopo Trento', in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 61-79 (p. 74).

² An overview of marriage and the Council of Trent can be found in J.A. Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), pp. 562-65; Gaudemet, *Le Mariage en Occident*, pp. 286-95. See also O. Niccoli, 'Baci rubati. Gesti e riti nuziali in Italia prima e dopo il Concilio di Trento', in S. Bertelli and M. Centanni, eds, *Il gesto nel rito e nel cerimoniale dal mondo antico ad oggi* (Florence: Ponte alle Grazie, 1995), pp. 224-47; D. Lombardi, 'Fidanzamenti e matrimoni dal Concilio di Trento alle riforme settecentesche', in Beer, Klapisch-Zuber and De Giorgio, eds, *Storia del matrimonio*, pp. 215-50; D. Lombardi, 'Intervention by Church and State in Marriage Disputes in Sixteenth- and Seventeenth-Century Florence', in T. Dean and K.J.P. Lowe, eds, *Crime, Society and the Law in Renaissance Italy* (Cambridge: Cambridge University Press, 1994), pp. 142-56; Lombardi, *Matrimoni di antico regime*, pp. 99-118; J.G. Sperling, 'Marriage at the Time of the Council of Trent (1560-70): Clandestine Marriages, Kinship Prohibitions, and Dowry Exchange in European Comparison', *Journal of Early Modern History*, 8/1-2 (2004), 67-108; D. Quaglioni, 'Segni, rituali e simboli nuziali nel diritto', in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio*, pp. 43-63. On marriage and canon law, see Gaudemet, *Sociétés et mariage*, pp. 425-47. For a study of marriage before the Council of Trent, see S. Seidel Menchi, 'Percorsi variegati, percorsi obbligati: elogio del matrimonio pre-tridentino', in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 17-60; Lombardi, *Matrimoni di antico regime*, pp. 35-68.

annullat.³

A marriage contracted *in facie ecclesiae* was a sacramental and indissoluble bond sanctified by God. It usually followed the *sponsalia* (betrothal), in which the couple promised to marry through words of consent. From the time of the Council of Trent until the nineteenth century, according to canon law, consent to marry was personal and freely given through *verba de futuro* or *verba de praesenti* (words of future or words of present).⁴ While the former was considered just an engagement, and therefore a breach of the promise was to some extent possible, the latter was an indissoluble marriage. This point was questioned by one of the most prominent eighteenth-century canonists, Jacob Anton Zallinger zum Thurn (1735-1813), who maintained that *sponsalia* through *verba de futuro* followed by consummation equated to a valid marriage in places where the Canons of the Council of Trent had not been published.⁵ Canon law did not require the parents' consent to contract marriage, but secular

³ Council of Trent, *Sess. XXIV* chapt. I: 'Those who shall attempt to contract marriage otherwise than in the presence of the parish priest, or of some other priest by permission of the said parish priest, or of the Ordinary, and in the presence of two or three witnesses; the holy Synod renders such wholly incapable of thus contracting and declares such contracts invalid and null, as by the present decree it invalidates and annuls them'. Text translated in 'The Council of Trent. The Twenty-Fourth Session', in *The Canons and Decrees of the Sacred and Oecumenical Council of Trent*, ed. and trans. by J. Waterworth (London: Dolman, 1848), pp. 192-232 (p. 197), <<https://history.hanover.edu/texts/trent/ct24.html>> [accessed on 30 April 2017].

⁴ On consent and the Council of Trent, see J. Gaudemet, 'L'Apport de la doctrine canonique aux droits occidentaux en matière de mariage', in S. Korta, H. Zapp, C.G. Furst and A. Weiss, *Ius canonicum in Oriente et Occidente* (Frankfurt: Peter Lang, 2003), pp. 167-95 (pp. 169-79). On the marriage promise, see also Donahue, *Law, Marriage, and Society*, pp. 16-33; M. Pelaja, 'La promessa', in Beer, Klapisch-Zuber and De Giorgio, eds, *Storia del matrimonio*, pp. 391-416; Lombardi, *Storia del matrimonio*, pp. 33-34.

⁵ The jurist Jakob Anton von Zallinger Zum Thurm (1735-1813) maintained that 'Olim tamen, ante Decretum Concilii Tridentini de matrimoniis clandestinis, et nunc etiam in locis, ubi illud Decretum non viget, siquis post sponsalia de futuro sponam carnaliter cognorat, praesumebatur consensum de praesenti in matrimonium praestitisse, et quidem praesumptione juris et de jure, contra quam non admittebatur probatio' (Once, before the decree of the Council of Trent on clandestine marriages, and now also in those places, in which the decree has no force, if someone, after having made the betrothal through words of future, carnally knew his bride, it was presumed that it proved that a consent to marriage through words of present was given, and indeed a *juris et de jure* presumption, against which no evidence was admitted); my translation. See J.A. von Zallinger Zum Thurm, *Institutiones juris ecclesiastici, maxime privati, ordine Decretalium*, 5 vols (Augusta Vindelicorum: Sumtibus Matthaei Rieger, 1793), IV, p. 7. See also the case described in S. Delmedico, *Breve studio sulla condizione giuridica della donna nello Stato Pontificio dell'Ottocento* ([n.p.]: Lulu.com, 2014), pp. 24-26.

lawmakers, aware of the importance of the family and its formation, included this approval as a formal requirement in their *iura propria*, as in the eighteenth-century *Costituzioni* for example. As the marriage bond fell under the Church's jurisdiction, these laws only regulated the access to wealth of the insubordinate sons and daughters, allowing their parents to provide them with smaller portions of alimony and inheritance as opposed to obedient offspring.⁶ This means that a marriage concluded without the parents' approval, although strongly discouraged, was a valid bond once contracted.⁷

A marriage promise was an impeding impediment: the betrothed were barred from marrying someone else. However, if a marriage was concluded in spite of the impediment, the bond was not void.⁸ A marriage promise could be broken if one of the betrothed could demonstrate that there were formalities that had not been taken into consideration, or if he or she had good reasons to refuse to marry the other party. A broken promise was a matter pertaining to canon law, and complaints had to be filed before the Bishop's Curia, which also had the power to remove impeding and diriment impediments (diriment impediments will be analysed later in this chapter).

The formalities regarding betrothals were not regulated by law, and were rather a private agreement.⁹ Among the upper classes, these took the shape of written acts that were usually formalised before a notary, because a breach of the promise had to be firmly avoided considering the financial investment that a marriage represented for a family. Among the

⁶ See, for example, Artt. 8-9, *Leggi, e costituzioni di Sua Maestà* (Turin: Stamperia Reale, 1770), pp. 324-25; Artt. I-II Tit. XIII, *Codice Estense*, in *Collezione completa*, p. 809. See also Lombardi, *Storia del matrimonio dal Medioevo a oggi*, p. 150.

⁷ On parental consent to marriage in municipal statutes, see T. Dean, 'Fathers and Daughters: Marriage Laws and Marriage Disputes in Bologna and Italy, 1200-1500', in Dean and Lowe, eds, *Crime, Society and the Law*, pp. 85-106 (pp. 89-90).

⁸ Impediments to marriage can be impeding or diriment: impeding impediments make a marriage illicit but valid, whereas diriment impediments invalidate it. Impeding impediments can be simple vow, prior marriage promise, lack of solemnities. On impediments, see also F. Mercanti, *Compendio di diritto canonico con illustrazioni storico-dogmatiche*, 4 vols (Prato: Guasti, 1832), I, pp. 448-49; C.E. Smith, *Papal Enforcement of Some Medieval Marriage Laws* (Port Washington: Kennikat Press, 1972 [1940]), pp. 5-53; Donahue, *Law, Marriage, and Society*, pp. 18-32.

⁹ For an overview of betrothals after the Council of Trent, see Lombardi, 'Intervention by Church and State in Marriage Disputes in Sixteenth- and Seventeenth-Century Florence', p. 145; J. Kirshner, *Marriage, Dowry, and Citizenship in Late Medieval and Renaissance Italy* (Toronto: University of Toronto Press, 2015), p. 52. See also Kuehn, *Family and Gender*, pp. 104-12.

lower classes, notarised promises were less usual, and often the betrothed formalised their commitment through a private, sometimes oral, agreement. If there was no written document, in the event of a breach of marriage promise, appellants had to rely on the evidence they were able to produce before the Curia.

In the following cases brought before the Bishop's Curia of Verona, in Lombardy-Venetia, the varying weight of the plaintiffs' evidence led to quite different outcomes. In 1830, for example, Andrea Buttarini – a boatman from Lonato, near Verona – wrote to the Bishop's Curia to establish an impediment to the marriage of Camilla Bettanini with Giuseppe Papa.¹⁰ Andrea maintained that Camilla had promised to marry him, and, to prove his case, brought a witness before the Curia. As was the usual procedure, the Curia summoned Camilla to explain why she had broken her promise. The woman maintained that the promise was made under the condition that her parents approved the marriage, but they did not. Andrea's claim was rejected, because the Curia ruled that according to canon law a promise was valid if made 'coram testibus, non coram teste' (before witnesses and not before one witness only), as in this case.¹¹ The sentence also stemmed from the Curia's assumption that Andrea just aimed to make a 'leggiadra vendetta' against Camilla, rather than really wanting her to keep the promise.¹²

Women were not always the weaker side, though, and often strategies and disputes related to marriage were arranged together with their family.¹³ Across all classes, a broken marriage promise also had social implications. A case in point is that of Giovanni Battista Civieri, a man from Verona. He was far from just plotting a 'leggiadra vendetta' against the woman he had once been engaged to: in fact, his desire to marry her was real, and he had standing proofs to impede her marriage to another man. He went before the Bishop's Curia of Verona to ask that the permission given to Luigia Ruzzenenti to marry the other man, Giovanni Battista Pagani, be withdrawn. Luigia's promise to marry him was 'indubitata',

¹⁰ Verona, Bishop's Curia of Verona (BCV), *Matrimoniorum, Processi*, 1830-1844, 26.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ On this point, see, for example, the case described in E. Papagna, 'Storie comuni di sposi promessi. I processi della curia arcivescovile di Trani nel tardo Settecento', in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio*, pp. 459-95 (pp. 480-83), in which a girl continued to procrastinate over the date of her marriage with her fiancé because she was trying to secure a wealthier match.

and Civieri proved it by showing a number of letters she had written to him.¹⁴ Luigia was a minor under the custody of her paternal uncle Paolo, since her parents had died several years earlier, and, in 1844, was promised to Civieri in the first instance. However, her uncle Paolo, ‘per effetto di manifesta ingiustizia, ed a fine di fare un’onta alla famiglia Civieri, seppe indegnamente indurre, [...] Dio sa con quali mezzi’, his niece Luigia to accept the hand of Pagani, a merchant.¹⁵

Civieri lamented much more than a broken promise or the unfair behaviour of Luigia’s uncle: he particularly highlighted that Paolo deliberately wanted to ‘fare un’onta’ to his family, thus emphasising the crucial link between promise and honour, and the need to defend his family’s prestige before society, not to mention his desire to marry Luigia. Civieri pointed out that they promised to marry ‘di moto loro proprio non indotti da alcuno’, and such a promise could not be withdrawn ‘a piacere d’uno di loro senza l’adesione espressa ed assentita dell’altro contraente’.¹⁶ Furthermore, Beatrice, Luigia’s aunt and wife of Paolo, had even obliged him to buy furniture for their future bedroom. This might have been a strategy of Luigia’s family to ascertain that Civieri was a reliable person: asking him to make such a purchase was not a negligible commitment for individuals belonging to the lower classes.

The letters Civieri brought before the Curia to prove the promise had all been written by Luigia between 29 September 1845 and 18 October 1846. Their inspection testified to the existence of genuine feelings between the two, and not to a mere arranged engagement. In September 1845, for example, Luigia wrote that she was very happy to know that he loved her ‘di vero core’, and, a month later, despite signing off the letter with the word ‘distintamente’, she specified that she would always be ‘la tua’.¹⁷ On 8 December of the same year, something happened between her uncle and the Civieri family, but Luigia assured Civieri that she would be ‘sempre fedele fino alla morte’; this time, she signed off

¹⁴ BCV, Matrimoniorium, Processi, 1845-1868, 27.

¹⁵ Ibid. Despite being extremely different from a Medieval *vendetta* (on this point, see T. Dean, ‘Marriage and Mutilation: Vendetta in Late Medieval Italy’, *Past and Present*, 157 (1997), 3-36 (especially pp. 3-5)), this *onta* is somehow comparable to a sort of insult made to one member in order to offend the whole family, highlighting the idea of honour which was highly valued across all social classes.

¹⁶ BCV, Matrimoniorium, Processi, 1845-1868, 27.

¹⁷ Ibid.

with ‘di vero amore e non ti scordar di me e sono la tua’.¹⁸ A few weeks later, the situation seemed to have worsened to the extent that she wrote ‘ti prego di non abbandonarmi e porta pazienza che tutto si finisce’; in July 1846, she again confirmed ‘non dubitare che altro non amarò che te’.¹⁹

The evidence to support Civieri’s claim was sound. However, in June 1847, Luigia and Pagani – the man her uncle wanted her to marry – put up the banns in the local church of San Zeno Maggiore. Civieri immediately reported to the Curia in order to stop the wedding from taking place. On 2 August 1847, the Curia summoned the girl to clarify her position: Luigia confirmed that she wanted to marry Civieri. Despite having put up the banns for her marriage to another man only a few months earlier, she finally married Civieri on 1 November 1847.²⁰ There is no written evidence explaining why Luigia’s family changed their minds again. One might argue that, since a broken marriage promise was a breach of canon law as well as of the shared rules of society (which were often as strong and influential as the written law), the authoritativeness of the Church, together with the need to avoid stigmatisation, may have led Luigia’s family to abide by the original promise made to Civieri. A broken marriage promise was a thorny issue, the regulation of which was far from simple: the Curia usually tried to persuade the parties involved to comply with it, given that, in practice, forcing them to marry against their will could be quite difficult.

2. Seduction of a ‘zitella onesta’

Along with the broken marriage promise, seduction, which implied sexual intercourse, was an equally significant matter and a source of great concern.²¹ In the Settecento, the wave of

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ S. Zeno Maggiore, *Matrimoni*, 1817-1848, 28.

²¹ On seduction by marriage promise, see G. Alessi, *Processo per seduzione: piacere e castigo nella Toscana leopoldina* (Catania: [n. pub.], 1988); A. Boureau, ‘L’imene e l’ulivo. La verginità femminile nel discorso della Chiesa nel XIII secolo’, *Quaderni storici*, 25 (1990), 791-803; G. Alessi, ‘Il gioco degli scambi: seduzione e risarcimento nella casistica cattolica del XVI e XVII secolo’, *Ibid.*, 805-31; D. Lombardi, ‘Intervention by Church and State in Marriage Disputes in Sixteenth- and Seventeenth-Century Florence’, in Dean and Lowe, eds, *Crime, Society and the Law*, pp. 142-56 (pp. 154-56); Cazzetta, *Praesumitur seducta*, pp. 136-46; Pelaja, *Matrimonio e sessualità a Roma nell’Ottocento*, pp. 51-59, 154-73; Lombardi, *Matrimoni*

new ideas, which, as we saw in Chapter 2, led to the redefinition of women's role in society as first educators, allowed room to consider them capable of understanding the implication of sexual consent. Up to that moment, a woman *semper praesumitur seducta* (was always presumed to have been seduced): this entailed that, if she gave consent to sexual intercourse (a *stuprum* or *stupro*), this was due to her *fragilitas*, because her will was presumed to always be 'honest'.²² Until the nineteenth century, the term *stuprum* was used to define sexual intercourse with an unmarried woman or with a widow of honourable social conditions.²³ The use of this term, which defined an intercourse contrary to morality, was intended to recall the sense of shame and dishonour caused by sexual relations taking place outside the marriage bond. Although it was deemed to be an illicit form of intercourse, it did not imply violence.²⁴ The *stuprum* could be 'semplice' or 'qualificato,' and the distinction was between the presence or absence of a marriage promise.

The ability to give consent, instead, meant that a woman might be guilty of having had illicit intercourse and a *socia criminis* (an associate of the crime), not just a mere seduced victim. As an accomplice, she was fully aware of the implication of her actions, and claiming seduction was considered a way to obtain an easy marriage. As highlighted by Giovanni Cazzetta, the rhetoric of the 'abusi delle donne', that is, women who consciously manipulated the law in their favour in order to be married, led to several proposals to

di antico regime, pp. 392-412; L. Faoro, "'Nefandum dogma". Seduzione e promessa di matrimonio in una comparsa trentina del XVII secolo', in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 431-528; D. Hacke, 'La promessa disattesa: il caso di Perina Gabrieli (Venezia 1620)', in *Ibid.*, pp. 395-413; G. Arrivo, *Seduzioni, promesse, matrimoni. Il processo per stupro nella Toscana del Settecento* (Rome: Edizioni di Storia e Letteratura, 2006); G. Alessi, 'Stupro non violento e matrimonio riparatore. Le inquiete peregrinazioni dogmatiche della seduzione', in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio*, pp. 609-40. On the Church's attitude towards sex, see M. Pelaja, *Scandali. Sessualità e violenza nella Roma dell'Ottocento* (Rome: Biblink, 2001); Pelaja and Scaraffia, *Due in una carne*; G.D. Tonini Masella, *Donne sole, modelle, prostitute: marginalità femminili a Roma fra Sette e Ottocento* (Rome: Edizioni di storia e letteratura, 2012), pp. 71-84. On the marriage promise in the period before the Council of Trent, see T. Dean, 'Fathers and Daughters: Marriage Laws and Marriage Disputes in Bologna and Italy, 1200-1500', in Dean and Lowe, eds, *Crime, Society and the Law*, pp. 85-106.

²² On this point, see Cazzetta, *Praesumitur seducta*, in particular, pp. 15-95.

²³ On the term *stuprum*, see *Digest* 48.5.35 (34), *Ad legem Iuliam de adulteriis coercendis*: 'stuprum in vidua vel virgine vel puero committitur' (fornication is committed with a widow, a virgin, or a boy). For the use of the term *stuprum* in ancient times, see also Brundage, *Law, Sex and Christian Society*, pp. 28-29.

²⁴ The definition of rape was *stupro violento* (violent *stuprum*).

decriminalise the seduction of women who gave their consent.²⁵ These proposals were driven by the aim to avoid ‘il risultato “mostruoso” di premiare col diritto donne colpevoli’.²⁶ In this regard, for example, in the mid-eighteenth century, Ludovico Muratori reported the case of a minister, who, aiming to stop the ‘esorbitanza ne gli Stupri’, enacted a law through which ‘facile riusciva l’accusare e costringere gli Stupratori a sposare o a dotare le zitelle’.²⁷ Muratori claimed that the impact of this provision on society had been negative: ‘le povere fanciulle si sentivano tratte a fallare per la facilità loro somministrata di veder premiati o ricompensati i lor falli’.²⁸ He also argued that both men and women could become prey to this kind of disorder, and a law that was not sufficiently harsh would consequently worsen society’s morality.²⁹ On this point, it is very interesting to note how Muratori considered both sexes prone to commit immoral acts: yet, for men, these ‘disorders’ could be forgiven as they would not bear any visible and long-lasting signs; for women, these *falli* would leave a mark and a blemish that could only be removed through marriage or, eventually, by obtaining a dowry, which would re-instate their value in the marriage market, and make them respectable wives. Although Muratori referred to them as ‘povere fanciulle’, according to eighteenth-century rhetoric, a woman rapidly evolved from being a person unable to understand the dishonesty of her actions, and whose consent was defective, to an individual fully aware of her action, in other words, a person, who with actual malice wanted to ensnare the man and achieve a marriage, the primary goal of every woman.

This meant that the claim of an honest unmarried woman, a *zitella onesta*, was to be carefully assessed.³⁰ She could report to the Bishop’s Curia to initiate a lawsuit against her seducer, and put in place an impediment to bar him from contracting marriage with someone else. For example, in a dispute reported in the journal *Giurisprudenza del codice civile* and

²⁵ On consent in the law, see Cazzetta, *Praesumitur seducta*, pp. 163-84.

²⁶ Cazzetta, *Praesumitur seducta*, in particular, pp. 17, 125-32.

²⁷ L.A. Muratori, *Della pubblica felicità, oggetto de’ buoni principi* (Lucca: [n.pub.], 1749), pp. 102-03.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ The term ‘zitella’ originated from ‘cita’ and ‘zita’, which meant young unmarried girl. See M. Cortellazzo and P. Zolli, *Dizionario etimologico della lingua italiana*, 5 vols (Bologna: Zanichelli, 1979-1988), V, s. v. zitella; S. Battaglia, *Grande dizionario della lingua italiana*, 21 vols (Turin: UTET, 1961-2002), XXI, s.v. zitella. The term *zitella*, ‘with the passage of time, morphed into ‘spinsters’’ (Hosker, “*Donne sole*” in *Post-Unification Italy*, p. 85). On the figure of the *zitella* in conduct literature, see Hosker, *Ibid.*, pp. 85-113.

brought before an unnamed tribunal of the Kingdom of Sardinia, a man, together with his father, asked the secular judge to order the Archbishop's Curia of Vercelli to remove the impedient impediment, which was hindering his marriage.³¹ Despite being rejected by the court for lack of jurisdiction (as we saw, these matters pertained to the Church's courts), the case is significant in terms of understanding how people tried to outflank this kind of issue. This man had sexual intercourse with a woman and got her pregnant. He then wanted to marry another woman, maybe of higher status, but the pregnant woman reported to the Archbishop's Curia of Vercelli and asked to put in place an impediment to bar his marriage to someone else. The seducer and his father asked to 'levare [...] l'impedimento impediente nascente dalla deflorazione [...] mediante cauzione di pagare quella indennità che potesse alla medesima essere dovuta'.³² In their minds, a compensation would simply pay off the problem: a 'deflorata' and pregnant woman, who gave consent to sexual intercourse after being promised marriage. As argued by Giorgia Alessi, since the sixteenth century, tribunals such as the Roman Sacra Rota had directed that a seducer could choose to either provide with a dowry, or marry, the seduced woman, while 'le antiche norme avevano addossato [quest'obbligo] cumulativamente'.³³ This aimed to avoid 'alla famiglie più nobili o facoltose l'onta di un matrimonio coatto con sedotte di bassa condizione'.³⁴

The seduction of a *zitella onesta* was a major challenge to the common and shared sense of honour and morality, and was to be deterred. The Austrian criminal code, the *Codice penale dei crimini, dei delitti e delle contravvenzioni* (1852), punished the seduction by promise of marriage with a fine and a prison sentence from three months up to a year.³⁵ The 'disonorata' was also entitled to compensation.³⁶ The jurist Luigi Oldrati explained that the 1852 code changed the word 'deflorata', which was used in the previous code (the 1803

³¹ *Giurisprudenza del codice civile*, 5 (1842), 149-51.

³² *Ibid.*, p. 149.

³³ Alessi, 'Il gioco degli scambi', p. 809. See also Alessi, 'Stupro non violento e matrimonio riparatore', in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio*, pp. 609-40.

³⁴ *Ibid.*

³⁵ Art. 506, *Codice penale dei crimini, dei delitti e delle contravvenzioni colle ordinanze sulla competenza dei giudizi penali, e col regolamento sulla stampa del 27 maggio 1852 per l'impero d'Austria* (Vienna: Manz, 1869), p. 177.

³⁶ *Ibid.*

Codice penale dei delitti e delle gravi trasgressioni di polizia),³⁷ into ‘disonorata’.³⁸ In particular, he noted that ‘deflorazione è il vocabolo usato dai criminalisti ad esprimere il delibamento del fior verginale, e la nuova legge avendo sostituito al verbo deflora quello di disonora, pare abbia voluto estendere l’azione anche alla persona già deflorata’.³⁹ In other words, this greater protection was also provided to women who had already lost their modesty, which was not uncommon since a marriage promise ‘per una zitella è forte stimolo a cedere alle voglie del seduttore’.⁴⁰ Oldrati implied that women, who were not deemed to have the same firmness as men, could easily become prey to unscrupulous seducers, putting their honour at risk, and irreversibly damaging their reputation.⁴¹

Poised between the rhetoric of the ‘abusi delle donne’ and the need to protect women, lawmakers considered seduction a very sensitive question as it often entailed a pregnancy: alongside a possible request to be married, a seduced woman could also ask for alimony to support her children. The question of the attribution of paternity reaffirms the double standard by which society considered the sexual behaviour of women and men; indeed, the greatest legal achievement of those who supported instances against the ‘abusi delle donne’ was the prohibition of this search. By impeding the search for paternity,

³⁷ On the 1803 Austrian criminal code, see S. Vinciguerra, ed., *Codice penale universale austriaco (1803)* (Padua: Cedam, 2001).

³⁸ L. Oldrati, *Codice penale austriaco attualmente in vigore nel regno Lombardo-Veneto con osservazioni teorico-pratiche e confronto coll’antecedente abrogato* (Milan: Manini, 1852), p. 432.

³⁹ Oldrati, *Codice penale austriaco*, p. 432. In this passage, it is worth noting the unusual use of the term ‘persona’, considering that nineteenth-century codes and tracts usually reported ‘femmina’ or ‘donna’. This might testify to a progressive shift in some jurists’ minds, from the idea that men and women should be considered individuals with different rights and duties, to a more inclusive approach. It could also mean that women were beginning to be considered worthy of enjoying rights based not purely on their biological nature, but because they were ‘persone’.

⁴⁰ Ibid.

⁴¹ On honour and reputation, which were important both for married and unmarried women, see D. Hacke, ‘La promessa disattesa: il caso di Perina Gabrieli (Venezia 1620)’, in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 395-413 (pp. 402-04); L. Turchi, ‘Adulterio, onere della prova e testimonianza. In margine a un processo correggese di età tridentina’, in Seidel Menchi and Quaglioni, eds, *Trasgressioni*, pp. 305-50 (in particular, pp. 318-19). On the rhetoric of the danger posed by seducers, see Cazzetta, *Præsumitur seducta*, pp. 330-38.

legislators aimed to remove what was considered an obsolete and outdated rule of the *Ancien Régime*, and, above all, to abolish this ‘privilege’ given to ‘*donne non oneste*’.⁴²

In the Kingdom of Sardinia, nineteenth-century law did not allow the search for paternity, except in two specific cases: if a man explicitly declared himself to be the father of a child (in a written document), or in case of an ascertained rape.⁴³ In Lombardy-Venetia, instead, paternity could be attributed to a man who, after the court’s investigations, was believed to have had sexual intercourse with a woman provided that her child was born within the appropriate period.⁴⁴

The search for paternity was crucial to obtain support for children born outside wedlock. Illegitimate children were a cause of great concern: even though the law provided them with the possibility to obtain support from their fathers,⁴⁵ claiming to have been seduced and obtaining a favourable ruling as a result was not an easy task for a woman.

A good example of this is the lawsuit concerning A. P., a woman seduced by promise of marriage. She had a long-lasting love affair with D. (both the plaintiff and the defendant were identified with their initials only) and gave birth to two girls in the years after the promulgation of the 1837 civil code of the Kingdom of Sardinia.⁴⁶ Before the court of Cagliari, she claimed that, if the current code required valid betrothals to be made in writing (through a private act or before a notary), D. promised to marry her when the 1827 *Leggi civili* of King Carlo Felice were in force, and this code did not have such a rule. A. P. was not able to prove when and if the marriage promise had effectively been made, and, therefore, in the absence of written evidence, she had no way to claim any civil effects. Given that a natural child could be recognised on the basis of Articles 180 and 185, and that, with the 1837 code, the search for paternity was not allowed, she was not even able to ask for any support for her daughters.

The court, however, issued a contradictory sentence: A. P. could not make any claim for her daughters, but surprisingly she was allowed to obtain compensation for having been

⁴² Cazzetta, *Præsumitur seducta*, p. 149.

⁴³ Artt. 180 and 185, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 603.

⁴⁴ Art. 163, *Codice civile universale austriaco pel Regno Lombardo-Veneto*, in *Collezione completa*, p. 156.

⁴⁵ Art. 166, *Codice civile universale austriaco pel Regno Lombardo-Veneto*, in *Collezione completa*, p. 157. On the right of natural children to receive alimony, see G.S. Pene Vidari, *Ricerche sul diritto agli alimenti* (Turin: Giappichelli, 1970). See also Cazzetta, *Præsumitur seducta*, pp. 147-49.

⁴⁶ *Giurisprudenza degli Stati Sardi* (1857), 661-62 (p. 661).

seduced. Indeed,

essa ha incontrovertibilmente diritto ad una competente indennità pel danno morale e materiale arrecatole dall'appellante suddetto, coll'averla, secondo venne concludentemente stabilito dalla prova testimoniale, con lusinghiere promesse indotta nei primi anni della sua adolescenza a far paghe le amoroze sue voglie; senza che a farle perdere siffatto diritto giovar possano al D... i fatti di non castigata condotta contro di essa articolati; si perché nulla di veramente positivo venne a tale riguardo accertato, e si ancora perché in ogni caso egli stesso ha da tenersi in colpa, se coll'aver esso medesimo fatto primamente deviare dal retto sentiero una giovinetta inesperta, le segnò primo la via della sregolatezza.⁴⁷

To support this argument, the court explained that A. P. had asked for 15,000 *lire* in compensation, and D. had offered only 1,000 *lire*: the fact that the seducer offered this sum meant that he acknowledged the harm caused to A. P. and was in fact guilty. With the judgement of 11 August 1857, the court of Cagliari condemned D. to pay 1,000 *lire*. Even more striking than the large difference between the compensation asked for and the amount effectively received by A. P. is that the court mentioned that she gave consent to sexual intercourse after his 'lusinghiere promesse', but argued that it was impossible to prove the marriage promise. The court also ruled that D. was the seducer of A. P. and she had 'incontrovertibilmente' the right to obtain compensation for the moral and material damage suffered. Instead, A. P.'s daughters were completely neglected and were not given any support, as they were illegitimate children and their paternity could not be ascertained. The reading of this sentence is once again a powerful reminder of the pivotal importance of the family, a sacred bond constituted through marriage, which alongside access to its wealth, would also provide children with status and worth.

Along with compromising their reputation and leading an immoral life, women who had illicit sexual intercourse were also considered to be at risk of committing infanticide.⁴⁸ As the Milanese lawyer Lino Ferriani pointed out in his *La infanticida nel codice penale e nella vita sociale* (1886),

⁴⁷ Ibid., p. 662.

⁴⁸ On infanticide, see T. Pedio, *La soppressione del neonato per causa di onore* (Milan: Giuffrè, 1954), pp. 10-22; Prospero, *Dare l'anima*; L. Garlati, 'Honour and Guilt. A Comparative Study on Regulations on Infanticide between the Nineteenth and Twentieth Century', in M.G. Di Renzo Villata, ed., *Family Law and Society in Europe from the Middle Ages to the Contemporary Era* (Cham: Springer International Publishing, 2016), pp. 257-81; Prospero, *Infanticide, Secular Justice, and Religious Debate*.

ci furono sempre donne che si macchiarono le mani nel sangue dei loro neonati o per evitare l'onta e lo scandalo, o perché spinte dalla miseria cresciuta nella corruzione, o per lucro infame, o per anima abbruttita sino dall'infanzia.⁴⁹

However, he allowed that women were not completely to blame. Those who truly 'arma[no] la mano dell'infanticida' were the seducers of honest women:⁵⁰ they belonged to the upper class, they were wealthy and therefore had more vices than others.⁵¹ As we shall see later in this chapter, this idea contradicts the commonplace that considered the poor as more vicious and prone to commit sins. Loredana Garlati suggests that this 'new understanding of infanticide emerged with the Enlightenment principles', and its interpretation became 'attached to an undefended female, victim of society, its values, and of men's deceitful seduction'.⁵² Women were considered as *sociae criminis* and undefended victims depending on the circumstances: this contradictory approach may be explained by the difficulties in understanding and accepting women's new sense of self, which emerged from the Enlightenment onwards, and led to a redefinition of their role, even though still to be played within the family.

Moreover, infanticide did not always have the same significance. Alongside the distinction between infanticide done voluntarily or caused by withholding care from the new-born baby, criminalists also distinguished between the killing of a legitimate child and that of an illegitimate one.⁵³ In the Kingdom of Sardinia, the punishment for infanticide could be reduced by 'uno o di due gradi riguardo alla madre che lo abbia commesso sulla prole illegittima, quando concorrono circostanze attenuanti'.⁵⁴ The criminal code of Lombardy-Venetia made the same distinction: infanticide was punished with 'duro carcere in vita, se il figlio era legittimo; se questi era illegittimo, ha luogo la pena del duro carcere

⁴⁹ L. Ferriani, *La infanticida nel codice penale e nella vita sociale: considerazioni* (Milan: Dumolard, 1886), p. 73.

⁵⁰ On this point, see also Cazzetta, *Præsumitur seducta*, p. 335.

⁵¹ Ferriani, *La infanticida*, p. 73.

⁵² Garlati, 'Honour and Guilt', p. 259.

⁵³ See Oldrati, *Codice penale austriaco*, p. 121. See also *Giurisprudenza degli Stati Sardi* (1852), 733-34.

⁵⁴ Art. 579, *Codice Penale per gli Stati di S. M. il Regno di Sardegna* (Turin: Minerva Subalpina, 1840), p. 98.

da dieci a venti anni'.⁵⁵ Clearly, legitimate children were deemed to have more value than illegitimate ones because they were born within wedlock and would bear the family name. Conversely, an illegitimate child would be stigmatised even during adulthood, and would hold an ambiguous place in society, to the extent that, in some legal proceedings, people indicted with crimes were mentioned with the term 'spurio' (illegitimate, fake, spurious) added to their names, indicating that their birth was an indelible spot, which would affect their lives forever, even though the case had nothing to do with their being illegitimate.⁵⁶ Moreover, an illegitimate who in adulthood wanted to receive ordination needed to ask for the *dispensatio natalium*, a dispensation granted by ecclesiastical authorities that cleaned up his uncertain birth and allowed him to enter Christendom as a person worthy of respect.⁵⁷ This shared sense of honour attributed value to people on the basis of their birth: hence the fact that women were given a lower penalty if infanticide was committed against an illegitimate child stems from a general comprehension of their need to protect their reputation.

This attitude towards people born outside wedlock did not mean that infanticide committed on an illegitimate child was not prosecuted. In a case heard before the court of final appeal of Turin, Giuseppa Bouvard, a 30-year-old peasant, demanded a reduction of her punishment. Previously, she had been convicted for having killed her baby and condemned to forced labour for life by the court of Chambéry, in Savoie, which at the time was part of the Kingdom of Sardinia.⁵⁸ Before the court of Turin, she argued that homicide, including that of a baby, implied premeditation. Her child, instead, was 'di recente nato' and, consequently, she had no time to plan a possible infanticide. She also asked to be condemned according to Article 579 of the criminal code, which dealt specifically with infanticide committed on an illegitimate child, and gave milder punishments. The court gave this description:

le 30 juin 1850, sur les onze heures du matin, la recourante est accouchée d'un enfant du sexe masculin [...] cet enfant a été présenté le jour même de sa naissance au recteur de la paroisse de Perjussy, qui l'a baptisé, et

⁵⁵ Oldrati, *Codice penale austriaco*, p. 121.

⁵⁶ See, for example, the case of Domenico spurio Belloni indicted for rape in Macerata at the end of the nineteenth century, in Macerata, State Archive of Macerata, Processi Penali, 1891, 164.

⁵⁷ Galdi, *Enciclopedia legale*, II, p. 709.

⁵⁸ *Giurisprudenza degli Stati Sardi* (1851), 56-59.

inscrit sur les registres des actes de l'état civil; et que la recourante lui a donné la mort dans la Commune d'Arenthon, pendant la nuit du 30 juin au 1er juillet. [...] la naissance de cet enfant a été connue, et légalement constatée.⁵⁹

On 15 March 1851, the tribunal of Turin rejected the appeal and confirmed the punishment based upon Article 582 (voluntary homicide without mitigating circumstances).⁶⁰ It is interesting to note that the new-born baby was first baptised and then killed. Even though the behaviour of Giuseppa was unclear, one could argue that this testifies to her piety. Giuseppa might have been aware that according to Catholic dogmas she would deserve Hell, but, despite not being able or willing to look after her child, and presumably having the intention of committing infanticide, she wanted her baby to become a true Christian, and be received in Heaven as only the baptised could. Baptism was therefore intended as a moment of creation, with the soul entering the body as the result of divine intervention.⁶¹

In Lombardy-Venetia, investigations and proceedings regarding infanticide were similar to the Kingdom of Sardinia. A case described in the journal *Giurisprudenza pratica secondo la legislazione austriaca*, concerned a 23-year old woman, Anna K., who was a housekeeper in a manor in an unspecified area of the countryside. Up to that time, she had never been under investigation.⁶² Her father had died many years earlier and her mother did her same job in a nearby manor. Anna K., as well as Giuseppa Bouvard, belonged to the 'human type' that committed infanticide as described by Adriano Prospero in his monographic study on the subject: servants or humble labourers, almost always unmarried.⁶³ Usually they did not have any close relatives, such as a mother or a father, living with them or supporting them.

Court records reported that Anna K. was arrested on the basis of Article 264 of the *Codice penale dei delitti e delle gravi trasgressioni di polizia* (1803), in February 1822.⁶⁴

⁵⁹ Ibid., p. 58. Part of the case is reported in French as this was the language spoken in the Savoie. Tribunals used both Italian and French. Decisions transcribed in legal journals are also in both languages.

⁶⁰ Art. 582, *Codice Penale per gli Stati di S. M. il Re di Sardegna*, p. 98.

⁶¹ On baptism, see also Prospero, *Infanticide, Secular Justice, and Religious Debate*, pp. 161-230.

⁶² *Giurisprudenza pratica secondo la legislazione austriaca*, 17 (1831), 67-88.

⁶³ Prospero, *Infanticide, Secular Justice, and Religious Debate*, p. 67.

⁶⁴ This article explicitly ruled that evidence of infanticide might come from the following combined circumstances: 'quando sia seguito un improvviso rimarchevole cambiamento del corpo, senza che appaja la Creatura, che ne doveva essere la causa, e che dalla visita, da queste circostanze occasionata, siasi rilevata la

In compliance with the terms of Article 264, she was deemed to have committed infanticide because ‘l’ingrossamento del suo corpo l’avea fatto riguardar da tutti come gravida’; then, all of a sudden, she returned to her usual physical appearance, without anyone having heard of her giving birth.⁶⁵ Even though there were no traces of the baby, she was subjected to inspection by an obstetrician, who confirmed that Anna had given birth three weeks earlier at the most. This testimony forced Anna to reveal the truth: eight days after Easter, she had been seduced by the son of her master and then ‘esserselo ingrossato il ventre, arrestati i suoi benefici, ed essersi quindi creduta gravida’.⁶⁶ On 20 January 1822, nine months after the seduction had taken place, two other girls, who worked as housekeepers in the same house, went to dance in a nearby inn, leaving Anna alone. She was already in bed when she felt a strong pain, and went to the commode ‘dove senza dolori qualche cosa da lei passò nel recipiente’.⁶⁷ Anna gave a confused description of what had happened to her and insisted that everything ‘passò tra la precipitazione e l’irriflessione’.⁶⁸ She then returned to bed, and, when her co-workers came back from their evening out, did not mention what had happened.

Since Anna shared the bed with the other two girls, one of them inevitably noticed that she seemed to have suddenly lost weight, and reported this fact during the trial.⁶⁹ The evidence and the testimonies were all against Anna, who had no way of escaping the indictment. She admitted to having understood ‘qual nero attentato avesse commesso contro la propria prole, che lo avrebbe pianto per tutta la vita, ma che allora non era corsa col pensiero alle tristi conseguenze, e così dicendo proruppe in diretto pianto’.⁷⁰ Anna secretly carried out her entire pregnancy without being able ‘to seek the advice and experience of married women or widows’.⁷¹ During birth, she was alone and without any support, as also during the trial. Anna claimed that she did not remember what had happened to her baby, and made no mention of cutting the umbilical cord. Instead, she insisted that everything

certezza di un parto poc’anzi accaduto’. See Art. 264, *Codice de’ delitti e delle gravi trasgressioni politiche* (Vienna: Stamperia Reale, 1803), p. 117.

⁶⁵ *Giurisprudenza pratica*, 27 (1831), p. 80.

⁶⁶ *Ibid.*, p. 82

⁶⁷ *Ibid.*, p. 80.

⁶⁸ *Ibid.*

⁶⁹ Sleeping in the same bed was very common among lower classes and one bed was commonly used by the whole family, leaving no room for intimacy. See, Lombardi, *Matrimoni di antico regime*, pp. 211-12.

⁷⁰ *Giurisprudenza pratica*, 17 (1831), p. 83.

⁷¹ On this point, see Prosperi, *Infanticide, Secular Justice, and Religious Debate*, p. 123.

went on very quickly, and that she had not understood what was happening. Whether Anna's ignorance of the consequences of her seduction was genuine, or just an attempt to escape conviction, she was nonetheless sentenced to two years of rigorous imprisonment for infanticide for voluntarily omitting the care a new-born needed.

Beyond the specific case and indictment of this young woman, the analysis of the court records as reported by *Giurisprudenza pratica* has value in that it shows which issues were taken into consideration by the law in action. Although a crucial link between seduction and infanticide was acknowledged, protection of the involved women faded more and more, to the extent that jurists even highlighted 'le solite scuse che le accusate sogliono addurre per ischivare le pene criminali nei casi d'infanticidio'.⁷² The journal stressed that the first excuse a woman used to avoid indictment was that she had given birth to a stillborn. The second most recurrent claim was that she was not aware of being pregnant. An infanticide also used to say that she was:

sorpresa e sopraffatta dall'imprevveduto parto ed abbia perciò partorito secretamente e senza assistenza; che nell'atto del parto abbia perduto affatto ogni presenza di mente, e che non abbia saputo più che cosa si facesse del feto; finalmente che per ignoranza non abbia prestato all'infante la necessaria cura ed assistenza e per esempio non abbia reciso ed annodato il vincolo umbellicale; dal che i medici asseriscono dover conseguire il dissanguamento e la morte.⁷³

Judges were to pay particular attention to the excuse of 'perdere i sentimenti', which was often used to remove the 'imputazione morale', but, in the opinion of doctors, this situation rarely happened during easy and regular childbirths.⁷⁴ What emerges from these nineteenth-century *communes opiniones* is 'una tela intrisa di ambiguità',⁷⁵ in which women were still considered unable to understand civil law, and were to be hindered from undertaking any legal act, but, at the same time, they were regarded as perfectly able to elaborate excuses in order to evade criminal law, and therefore should be punished in the same way as men.

⁷² Ibid., p. 85.

⁷³ Ibid., p. 86.

⁷⁴ See also *Giurisprudenza pratica*, 13 (1830), 176-77.

⁷⁵ Cazzetta, *Praesumitur seducta*, p. 338.

3. Extramarital relations

Alongside seduction, which affected ‘honest’ girls, extramarital relations, that is, sexual intercourse outside marriage, were also not allowed, and even punished. Public authorities, and society as a whole, paid great attention to issues causing disorder and *scandalo pubblico*, events conflicting with the moral, behavioural and cultural structures around which society revolved. As we shall see, authorities tried their best to circumscribe sexual intercourse within the boundaries of wedlock both by removing possible obstacles to marriage (e.g. canonical impediments) and by punishing situations that could not be solved in other ways, as in the case when the parties involved were already married to other people. Sexual intercourse outside the marriage bond was defined in terms of ‘pratiche disoneste’ or ‘commercio illecito’, explicitly conferring a moral stigma, and, at the same time, defining sex within marriage as honest and licit.

In the Kingdom of Sardinia, the ‘pratiche disoneste’ were handled as a crime and punished according to Article 437 of the *Codice Penale*. The sentence depended upon whether the people involved were married or not, and, made no formal distinction between men and women: unmarried people could risk up to one year in prison; a married person, who had sexual intercourse with an unmarried person, could undergo one to two years of prison; if both were married, they would be condemned to imprisonment from two to three years.⁷⁶ This article did not mention adultery: the boundaries between adultery and extramarital relations were blurred and pertained to the way they were perceived (I shall deal with adultery in Chapter 6, when examining causes of separation). Extramarital relations, which often were also adulterous, impacted on society’s sense of honour, and authorities felt the need to remedy. A cause for adultery, instead, had to be initiated by the betrayed spouse, who could also decide not to initiate it at all. Illicit sexual intercourse was a public matter and a crime against ‘il costume pubblico’, whereas adultery was a crime against ‘l’ordine delle famiglie’.⁷⁷

This is illustrated in a judgement of 17 August 1855, regarding a man, whose family name was Ellena (no other details about his identity were given), given a three-year sentence

⁷⁶ Art. 437, *Codice Penale per gli Stati di S. M. il Regno di Sardegna*, p. 76.

⁷⁷ *Codice Penale per gli Stati di S. M. il Regno di Sardegna*, pp. 76 and 90.

in prison for having had an affair with a woman, a certain Duverney.⁷⁸ They both lived in Chambéry and were both married to other people, yet they persisted in their relation, which provoked *scandalo pubblico* in the local community. The mayor of Chambéry demanded their arrest, and the tribunal, after having questioned the witnesses, enforced their punishment on the basis of Article 437. The case was appealed by Ellena: he argued that his punishment was unjust as none of the people who had borne witness against him should have been allowed to do so. In particular, he claimed that neither the mayor nor the police could testify, as this was not an office but an instance case. The difference relied on the possibility of the case being initiated by public authorities (office case) or by a person who had a claim (instance case). Ellena maintained that the lawsuit could have been initiated only by his spouse, who had been betrayed and had motives to seek a remedy. He also argued that Article 437 punished concubinage, and the nature of their relation was not such, because they did not live together and the law condemned not ‘gli atti di fornicazione, ma l’insulto fatto alla società ed alla religione con legami illegali imitanti il matrimonio, con carattere di comune abitazione, letto, vita e nome’.⁷⁹ Other than claiming that public authority was not allowed to bear witness in such a case, Ellena also tried to highlight that ‘le relazioni illecite tra persone di sesso diverso sono affare di coscienza’.⁸⁰ Conversely to Ellena’s point, this case confirms that nineteenth-century society firmly believed that sex was not just an intimate matter and public authorities were allowed to intrude in a person’s intimate life. Ellena’s argument was essentially wrong: Article 437 did not punish concubinage as did, instead, Article 526. Both the court of first instance and that of appeal pointed out that Article 437 precisely stated that ‘toutes les relations illicites qui ont été fréquentes et ont amenés le scandale public’ were to be punished. The sentence was appropriate because it has been ascertained that:

la femme Duverney avait des relations illicites avec Ellena, qu’elle entraînait chez lui de jour et de nuit, que ces relations, dont ce dernier s’était même vanté, avaient le caractère de scandale public, et que les deux prévenus étaient mariés.⁸¹

⁷⁸ *Giurisprudenza degli Stati Sardi*, 6 (1856), 714-16.

⁷⁹ *Ibid.*, p. 715

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

It is worth noting that the court emphasised the characteristics of this relation, which fit into its definition of public scandal: their sexual relations were ‘fréquentes’, and the woman entered the man’s house at all hours of the day.

In Lombardy-Venetia, instead, sexual intercourse was not punished, arguably because ‘lo scandalo dell’inquisizione sarebbe spesso un male maggiore dell’impunità’.⁸² However, the moral authority and the rules of the Catholic Church strongly influenced the approach towards these issues. Session XXIV of the Council of Trent’s Canons stated that those who carried out ‘pratiche disoneste’ were warned three times, and, if they persisted in behaving in such a way, excommunicated, regardless of their status or social class. Although punishment was deemed to be applied to people of any class and status, closer attention was paid to the poor, who were considered to be more easily prey to incontinence,⁸³ which was ‘[il vizio] il più vile, il più schifoso, il più abbominevole’.⁸⁴

In 1855, for example, the Milanese Curia wrote a letter to the local lieutenancy with the suggestion to allow a couple to marry as soon as possible. The case concerned a woman from Busto Arsizio (a town 40 km from Milan), who wanted to marry the man with whom she had lived in previous years. As her husband, from whom she had legally been separated since 1847, had just died, she did not want to wait the time prescribed by the law before remarriage. The Curia explained the situation with these words: ‘la sconsigliata si diede ad altro uomo libero [...] e con esso visse in riprovevole concubinato, con quanto rumore e con qual danno di cattivo esempio, non è a dirsi’.⁸⁵ The choice of the terms used serves as a notable example of the Ottocento’s mindset. The woman is described as ‘sconsigliata’, maybe meaning that she had not been educated to the correct way of living, and had not received the right ‘consiglio’. Along with the disappointment that emerges from this letter, it could be also noted that this couple had lived together for many years, and the Church could do nothing else but morally condemn them.⁸⁶ The situation of this *sconsigliata*,

⁸² Oldrati, *Codice penale austriaco*, p. 104.

⁸³ *Raccolta di alcune notificazioni, editti, ed istruzioni: opera utilissima a tutti gli ecclesiastici*, 5 vols (Venice: Pitteri, 1740), III, p. 29.

⁸⁴ M. Piano and G. Labus, ‘Meditazione VI, Sul vizio della disonestà. *A spiritu fornicationis libera nos, Domine*’, in *Istruzioni dogmatiche parrocchiali e discorsi evangelici; coll’aggiunta di due ragionamenti* (Milan: Manini, 1839), pp. 691-94.

⁸⁵ Milan, Archivio Diocesano, Carteggio Ufficiale, April 1855, 472.

⁸⁶ On this point, see also Pelaja, *Matrimonio e sessualità a Roma nell’Ottocento*, pp. 174-82.

however, was redeemable: by allowing the couple to marry immediately, ‘si verrebbe in tal modo a por fine immediata ad un disordine che generi e genera tanto scandalo’.⁸⁷

The Church, and secular authorities as well, tended to do their best to favour marriage. As we have seen, ecclesiastical authorities had significant powers over canon law outside the boundaries of the Papal States. Alongside impedient impediments such as marriage promise, discussed earlier in this chapter, the local Bishop could also remove the fourteen types of diriment impediments, which rendered a person incapable of validly contracting a marriage.⁸⁸ Affinity, for example, was a diriment impediment the Bishop’s Curia had the power to issue a dispensation. It was defined as ‘una specie di parentela originata dalla copula carnale o sia lecita o illecita, purché sia sufficiente alla generazione’,⁸⁹ and could exist between a man and a woman’s blood relations, and vice versa.⁹⁰ This was an impediment that individuals very often asked to remove: it frequently happened that a widow or a widower continued to have relations with the family of his or her deceased spouse and ended up marrying another member of the in-law family. In these cases, the new couple usually reported to the Curia and explained their motivations for marrying, which often were basic and aimed at getting through everyday life.

A case in point is that of Francesco Gerardo Turri and Amalia Civali, who, in 1863, went before the Bishop’s Curia of Verona to ask for the necessary dispensation. Amalia, aged 37, was the widow of Giovanni Turri, the brother of Francesco Gerardo, aged 40. The two described their actual condition and pleaded to be allowed to marry. They admitted to having had sexual intercourse before the death of Amalia’s husband, and even believed that the son she had was Francesco Gerardo’s and not her late husband’s child. Moreover, Amalia was again pregnant, and Francesco Gerardo was the father. They made no mention of any feeling or love existing between them, further still, Francesco Gerardo added that he was in extreme need of a woman to carry out housework and assist his aged parents. They also stressed to the Curia that they both were very poor, ‘miserabilissimi’, and, taken into consideration the ‘mali commessi’, would not find other spouses. However, the most important argument in favour of the removal of the impediment might have been that, if they got married, ‘sarebbe levato lo scandalo e provveduto alla donna, che altrimenti così

⁸⁷ ADM, Carteggio Ufficiale, 1855 Aprile, 472.

⁸⁸ Mercanti, *Compendio di diritto canonico*, I, p. 450.

⁸⁹ Ibid., pp. 459-60.

⁹⁰ Pelaja and Scaraffia, *Due in una carne*, pp. 105-10.

abbandonata si darebbe ad una vita cattiva'.⁹¹ As Margherita Pelaja argued, the Church saw the people as prone to sin, 'sempre sull'orlo dell'orgasmo',⁹² and, therefore, every action to avoid scandal and favour marriage was to be taken.⁹³ The couple of this case touched the right chord by highlighting the scandal and the risk for Amalia of incurring in a 'vita cattiva': the impediment to marriage was removed, and they were allowed to marry.⁹⁴

Confining sexual intercourse within the boundaries of marriage was a primary goal to pursue. James Brundage highlighted that authorities were convinced that 'fornication was [...] the basic type of illicit sex, a sordid business that fouled the body while it sullied the soul',⁹⁵ and these ideas were delivered by means of both temporal and secular authorities in states such as the Kingdom of Sardinia and Lombardy-Venetia. But sin and grace were 'a concern of all people, from the theologians to the most modest peasants, [and much] more than a means of governing Christian society',⁹⁶ and, as Jean Delumeau observed, 'spiritual fear most deeply afflicted the Christian elites themselves'.⁹⁷

In such a context, confession, and possibly repentance, were solutions provided to society, which was viewed in a constant and crucial tension between sin and salvation,⁹⁸ and, at the same time, were means to confirm the Catholic Church's power and influence beyond the boundaries of its secular state. Many tracts explained how to tackle in practice sensitive and difficult situations where people's morality was at risk, given that 'gli agguati del peccato della carne [sono] onnipresenti' and the sin 'ci stringe d'assedio e si cela sotto

⁹¹ BCV, *Matrimoniorum*, Dipense, 1863.

⁹² Pelaja and Scaraffia, *Due in una carne*, p. 155.

⁹³ On Church, sin and the law, see also, N. Davidson, 'Theology, Nature and the Law: Sexual Sin and Sexual Crime in Italy from the Fourteenth to the Seventeenth Century', in Dean and Lowe, eds, *Crime, Society and the Law*, pp. 74-98.

⁹⁴ On female prostitution, see M. Turno, *Il malo esempio: donne scostumate e prostituzione nella Firenze dell'Ottocento* (Florence: Giunti, 2003); G.D. Tonini Masella, 'Il buon nome delle donne. Matrimonio, professione e reputazione nella Roma dell'Ottocento', *Storia delle donne*, 6/7 (2010-2011), 139-55; Tonini Masella, *Donne sole, modelle, prostitute*, pp. 111-56.

⁹⁵ Brundage, *Law, Sex and Christian Society*, p. 205.

⁹⁶ J. Delumeau, *Sin and Fear: The Emergence of a Western Guilt Culture, XIII-XVIII Centuries* (New York: St. Martin's Press, 1990), p. 248.

⁹⁷ Delumeau, *Sin and Fear*, p. 321.

⁹⁸ Guerci, *La discussione*, pp. 41-57.

le più innocenti apparenze'.⁹⁹ For example, the priest Filippo Maria Salvatori in his *Istruzione pratica per i confessori novelli* (1832) explained that 'in tre ore circa di lavoro seguito mi riesce di fare una confessione generale anche di 50 e 60 anni'.¹⁰⁰ Confession, a prerequisite for absolution, had to be complete and sincere; but receiving a confession was a thorny issue even for an experienced priest, who had to pay particular attention to avoiding any contact with the sinner, especially if this was a woman, as 'il volto della donna è come un vento che brucia la pelle'.¹⁰¹ Despite these efforts and training, once confession and repentance were obtained, it was difficult to find a person who would not fall into sin again. Carrying out dishonest practices brought such a 'danno spirituale, peggiore di tutti gli altri, sì è la gran difficoltà che incontrano i disonesti ad emendarsi, la gran facilità a morire impenitenti e dannarsi'.¹⁰²

By controlling marriage and sexuality, the Catholic Church penetrated into the fabric of Italian society and imposed its own sense of morality, which was to be pursued and praised as the 'correct' way of conducting oneself in life and society. This is because 'sexual beliefs and practices exert power, not only over individual conduct, but also over the ways in which institutions themselves grow and develop [having] significant bearings upon property interests, household structure, and notions about morality, among many other things'.¹⁰³ Preventing the *disordine* that dishonest practices could cause to society was not just a way to avoid scandal and ensure peace: the intrusiveness in the intimate sphere of an individual was a means of control,¹⁰⁴ and also a mission entrusted to authorities. When prison was not enough to discourage illicit intercourse, moral condemnation and menace of perdition were put into play, as the ultimate goal was an ideal society in which things moved

⁹⁹ Ibid., pp. 42-43.

¹⁰⁰ F.M. Salvatori, *Istruzione pratica per i confessori novelli: divisa in due parti* (Turin: Marietti, 1832), p. 271. On confession and the Church, see also P. Brooks, *Troubling Confessions: Speaking Guilt in Law and Literature* (Chicago: University of Chicago Press, 2000), pp. 90-102; Pelaja and Scaraffia, *Due in una carne*, pp. 101-48.

¹⁰¹ Antonino da Firenze cited in Pelaja and Scaraffia, *Due in una carne*, p. 136.

¹⁰² Piano and Labus, *Istruzioni dogmatiche*, p. 694.

¹⁰³ Brundage, *Law, Sex and Christian Society*, p. 1.

¹⁰⁴ On this point, see also Delumeau, *Sin and Fear*, pp. 320-22; Di Simplicio, *Peccato penitenza perdono*; Bonacchi, *Legge e peccato*; C.F. Black, *Church, Religion and Society in Early Modern Italy* (Basingstoke: Palgrave Macmillan, 2004); I. Fosi, *La giustizia del papa. Sudditi e tribunali nello Stato Pontificio in età moderna* (Rome and Bari: Laterza, 2007).

in the correct way, with people put down to authority, and the law and hierarchical order did not incur in any challenge.

Chapter 5

Women, marriage and the transmission of property

If intrusion in the people's intimate sphere was a way to exert control over society and enforce the established order, lawmakers and authorities also paid attention to matters regarding the transmission of wealth. Through dowry and inheritance, wealth changed owner thus challenging the equilibrium on which families and society depended. While, in the Kingdom of Sardinia, the dowry was a woman's lawful share of her parents' inheritance; in Lombardy-Venetia, women had the possibility to inherit to the same degree as their male relatives, with the dowry being just an advance on the portion of inheritance they were entitled to at their parents' death.

However, as we shall see, cultural shackles were still very strong, and despite being under the rule of Austrian law, Lombardy-Venetia shared social rules with other areas of the Italian peninsula. In particular, the prominence given to men can be inferred from many private acts, such as wills, which attempted to override the law, and debarred women from accessing the due portion of their family's wealth.

Drawing on archival material and legal journals, including *Annali di Giurisprudenza* or *Giurisprudenza pratica secondo la legislazione austriaca*, this Chapter analyses attitudes towards dowry and inheritance by examining a legal disquisition as well as a select number of cases. With regard to the Kingdom of Sardinia, the cases are judicial proceedings concerning dowry; cases regarding Lombardy-Venetia, instead, pertain to wills, and demonstrate the distorting intent with which the latter were sometimes used. These case studies taken together help us to understand the expectations, mentalities and behavioural patterns of nineteenth-century society.

1. 'Recapitata onestamente': women's exclusion from inheritance in the Kingdom of Sardinia

As we saw earlier in Chapter 3, the dowry was a crucial institution in most areas of the Italian peninsula. In the Kingdom of Sardinia, it was the only inheritance portion women

had a right to, except for the short period of the French conquests, when they were entitled to inherit in the same way as men. With the repeal of the Napoleonic code after the Congress of Vienna, the *Regio Editto* of 21 May 1814 directed that the *Regie Costituzioni* of 1770, and other acts promulgated up to 23 June 1800, again had force of law.¹ This meant that women's access to inheritance was once again limited to an 'appropriate' dowry. The measure of this appropriateness was calculated by considering the family's goods, and dowries given 'alle persone di simil grado, secondo la consuetudine del luogo'.² For married women, an appropriate dowry was 'quella dote, colla quale sieno state onestamente ricapitate'.³ As we shall see, this concept had fluid boundaries which were sometimes questioned before courts.

Having a dowry also implied that a woman was excluded from inheriting from her mother,⁴ and had no right to her relatives' patrimony. Especially during the first half of the nineteenth century, these norms led to several disputes, to the extent that jurists felt the need to clarify some points related to women's exclusion. In 1838, *Annali di giurisprudenza*, an authoritative journal of jurisprudence of the Kingdom of Sardinia, published a disquisition on the maxim 'tot dotes quot hereditates' (as many dowries as inheritances), that is, whether an amount corresponding to an appropriate dowry was due to a woman on each *ab intestato* inheritance.⁵ This was meant to explain that, although a patrimony could substantially increase after receiving several inheritances, a woman, who was already dowered, was not entitled to any addition. As we shall see in this disquisition as well as in the cases reported in the following sections, the issue contained many contradictions and inconsistencies: the difficulties in dealing with the enormous bulk of laws, all in force at the same time, and the need to interpret the law without provoking a disruptive effect in the social fabric consistently affected the coherence of the legal framework.⁶

¹ Regio Editto, N. 9, *Raccolta degli atti del governo di Sua Maestà il Re di Sardegna dall'anno 1814 a tutto il 1832*, 22 vols (Turin: Pignetti and Carena, 1842), I, pp. 15-18.

² Art. 6, Lib. V, Tit. 7, *Leggi, e costituzioni di Sua Maestà*, p. 336.

³ *Ibid.*, p. 336.

⁴ Art. 3, Lib. V, Tit. 7, *Leggi, e costituzioni di Sua Maestà*, 2 vols (Turin: Stamperia Reale, 1770), I, p. 336.

⁵ *Annali di giurisprudenza raccolta mensile pubblicata da una società di avvocati e causidici*, 1 (1838), 41-51.

⁶ On the lack of coherence in the nineteenth-century legal system, see P. Grossi, 'Tradizione e modelli nella sistemazione post-unitaria della proprietà', *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, 5-6 (1976-1977), 202-338 (pp. 203-06).

The disquisition stated that, even if women were excluded *propter dotem* by law, at the opening of each inheritance, they had to be considered as if they were heirs in order to correctly assess their case. The reasoning behind this principle was that, if the assets increased considerably, the dowry, too, might be subject to a re-measurement of appropriateness. *Annali di giurisprudenza* pointed out that the crucial point to consider was whether a woman was married or not, because ‘la differenza che passa tra la maritata e la nubile sta riposta nel modo di determinare la *congruità* della dote, che venne loro lasciata, o costituita’.⁷ Even though the *Regie Costituzioni* did not explicitly make such distinction, the journal argued that the appropriateness was to be determined at the time of marriage, given that an unmarried woman could also have a dowry which could have been bequeathed by will or promised before her marriage, and then formally constituted after this event. The journal specified that a woman, who was ‘recapitata onestamente’, ‘è rimossa dalle successioni che a di lei favore si aprono’, because a married woman was always assumed to be appropriately dowered.⁸ On this basis, there was no reason to grant her further rights. As we shall see, a possible consequence of this principle was that if, for example, a woman had received a dowry appropriate to her status from a relative, she would even be excluded from the inheritance of her father.

Annali di giurisprudenza next gave a number of examples of late eighteenth-century lawsuits, which allowed room for questions. In 1781, for example, Rosalia Caccia – already married and dowered – was denied the inheritance of her deceased sister Polissena; but their sister Felicita was able to inherit because she was still unmarried and had no dowry. In another case, decided in 1795, a court denied Maddalena Gallea Bussolino, who was also already married and with a dowry provided by an uncle, the possibility to inherit from her mother and her sister, because she was already ‘recapitata’ and dowered.⁹ Conversely, in a judgement ruled a few years earlier, in 1740, the court maintained that, as Rosalia Anna inherited a sum of money from her mother and, then, constituted her dowry by herself, she was still able to succeed to her father, ‘senza punto far caso della circostanza se [...] fosse maritata, o nubile’.¹⁰ As mentioned earlier, the formal act of constituting a dowry prevented the free use of money and goods which were part of it, thus keeping them safe for the time

⁷ Ibid.

⁸ *Annali di giurisprudenza*, 1 (1838), 41-56 (p. 51).

⁹ Ibid.

¹⁰ Ibid., p. 52.

of widowhood. In the case of Rosalia Anna, the decision relied on the assumption that her dowry was not constituted in a way to remove her from succession, because it was not given by ‘ascendenti paterni, o materni, o da trasversali’.¹¹ It is clear that this interpretation of the law contradicted what the journal claimed at the beginning of the disquisition, namely that a married woman was always assumed to be appropriately dowered, and, therefore, ‘rimossa dalle successioni che a di lei favore si aprono’.

Annali di giurisprudenza added that judges often granted more than one dowry to women: ‘sembrando loro troppo rigorosa l’esclusione [...] ravvisavano ottimo consiglio il mitigare l’asprezza della legge, allorché l’occasione si presentava di farlo senza sovvertirne il letterale precetto’.¹² The journal argued that there were always solid reasons that permitted an exception, and courts had to carefully assess if money or goods already given to women could be considered appropriate dowries or not. For example, in 1837, a court ordered that a woman, Giacinta Regis, could obtain a dowry from the patrimony of her brother Domenico. The decision highlighted that, even though she had already been given a dowry from her father’s estate, Giacinta was not yet married and was allowed to remeasure the appropriateness of her dowry on the basis of the wealth left by her deceased brother.¹³

With regard to unmarried women, the value of their dowries had to be carefully evaluated and they had the right to examine their appropriateness on the basis of the quality and quantity of their family’s assets. If a dowry left by an ancestor or by other relatives was still appropriate, it should not be increased; instead, if it ceased to be appropriate, especially in comparison to ‘persone di simil grado secondo la consuetudine del luogo’, addition should be made to that dowry.¹⁴

As it emerged from this disquisition, alongside the written law, its interpretation was far from pristine, and the maxim ‘tot dotes quot hereditates’ needed to be interpreted case by case and not taken literally. With regard to dowry, given its pivotal importance in areas such as the Kingdom of Sardinia, various sources of law coexisted and their interpretation led to contradictions, overlaps and inconsistencies, which often resulted in unexpected court judgements.

¹¹ Ibid, pp. 52-53.

¹² Ibid., p. 49.

¹³ Ibid., p. 47.

¹⁴ Ibid., p. 51.

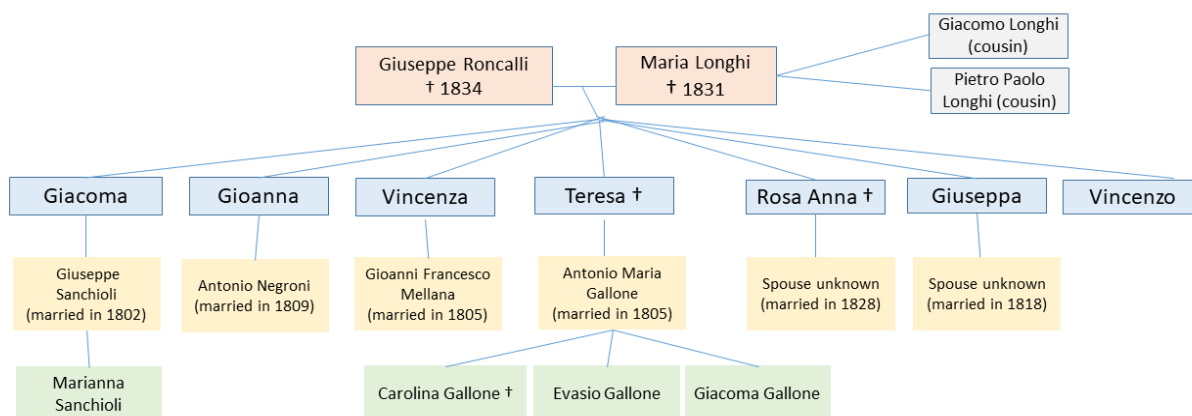
2. The Roncallis: a wealthy family in Piedmont

In the Kingdom of Sardinia, despite being debarred from accessing a large portion of their parents' patrimony, women had to be present when the formal act of constituting their dowry was signed. A case regarding a litigation that took place in Piedmont, which was part of the Kingdom of Sardinia, is illustrative of this rule.

The dispute regards members of a large patriarchal family, the Roncallis, and highlights the large difference between the portion of family assets that women and men were entitled to receive. Furthermore, it gives an interesting perspective on how courts dealt with the many co-existing and, sometimes, conflicting laws. As we shall see, the Roncalli family lived in the Kingdom of Sardinia, precisely in Vigevano, a town 50 km from Milan. They were very close to the Duchy of Milan, which would become part of the Kingdom of Lombardy-Venetia, and had several social and economic relations in that area. Alongside the custom of using the *scudi* of Milan as currency, inhabitants often signed legal acts based on the Duchy's local statutes. In such cases, judges had not only to tackle a dispute in itself, but also to deal with different sources of law.

Maria Longhi and Giuseppe Roncalli had one son and six daughters. An image of the family tree will help understand the at times intricate developments of the case brought to court.

The Roncalli family in 1841



The Roncallis were very wealthy, and were able to provide each of their daughters with a dowry worth 3,833 *scudi* of Milan, plus a 540-*scudo* trousseau. As Cesarina Casanova observed, a family's choices of continuity corresponded 'all'entità delle risorse, materiali e simboliche, [...] e al quadro istituzionale e normativo che condiziona le loro possibilità di disporre'.¹⁵ Such were the Roncallis' choices in the interests of continuity: they gave very good dowries to all their daughters, but it was their son Vincenzo who was the 'chosen' one. Entrusted with the goal to carry forward the family's name and status, he was entitled to inherit the great majority of their patrimonies and, above all, their physical assets, namely estates and land.

Two daughters, Giacoma and Gioanna, married in 1802 and 1809, respectively. They both went to live in Milan and their dowries were established on the basis of the Statutes of Milan. Giacoma's dowry was constituted on 9 December 1802, and was given to Serafino Sanchioli, father of her husband Giuseppe. Gioanna married 17-year old Giuseppe Antonio Negroni. In Gioanna's case, the dowry instrument, dated 20 January 1809, reported that it was Clara Sassi – mother of Giuseppe Antonio – who gave consent to her son's marriage and received 'in her hands' the dowry of her daughter-in-law.¹⁶ According to the Statutes of Milan, a woman was able to make contracts if she was a widow and had no agnates, and this point was to be proven with an oath.¹⁷ A widow was also able

¹⁵ Casanova, *La famiglia italiana*, p. 43.

¹⁶ Turin, State Archive of Turin (AST), Casale, Corte di Appello, First Quarter of 1849, n. 31. A summary of this case can also be found in *Giurisprudenza Italiana*, 2 (1849), 671-97.

¹⁷ See Statute 328, *Statuti di Milano: volgarizzati con note, e spiegazioni* (Milan: Galeazzi, 1773), pp. 177-79. Since ancient times, the oath was highly significant for the confirmation of a legal transaction, if its validity was doubtful. Various jurists maintained that 'col mezzo del giuramento si riconoscevano efficaci anche obblighi che il diritto civile rifiutava di riconoscere', and its importance was granted by the legal value it had in Canon law, in which 'valeva a costituire una propria obbligazione ogni qual volta la promessa fosse moralmente lecita' (Pertile, *Storia del diritto italiano*, IV, pp. 467-70). An oath was also meant to be an assertion of the truth 'invocando Dio come vindice della menzogna' (A. Lorenzoni, *Scelta di disposizioni del diritto romano* (Padua: Cartallier and Sicca, 1838), pp. 160-63), or a confirmation of the truth ('colui che giura rende a Dio il diritto della verità'): it was an obligation that bound people who swore, compelling them to fulfil this promise. The oath was 'un atto di religione col quale si prende Dio a testimonio delle cose che si affermano o si promettono' (*Enciclopedia dell'ecclesiastico*, 4 vols (Naples: Ranucci, 1844), II, pp. 241-44). Despite its decreasing use in the eighteenth century, the *Regie Costituzioni* described the oath in great detail. See Artt. 1-20, Lib. III, Tit. XIV, *Leggi, e costituzioni di Sua Maestà. Loix et constitutions de Sa Majesté*, 2 vols (Turin: Stamperia Reale, 1770), I, pp. 350-58. In particular, Art. 11 mentioned that anyone who perjured

to give consent to her children's marriage if they were minors.¹⁸ The consent Clara Sassi gave to her son's marriage and the fact that she received her daughter-in-law's dowry prove she was a widow. Although at that time the Napoleonic Code was in force in this area and excluded the recourse to any other sources of law, people continued to conclude acts by referring to local statutes. Given the uncertain political and juridical situation they experienced, perhaps people might have preferred to resort to the legal system they were familiar with, despite its many inconsistencies.

Two other daughters, Vincenza and Teresa, both married in 1805: Vincenza to Gioanni Francesco Mellana on 23 June, and Teresa to Antonio Maria Gallone on 17 November. On the day of Teresa's marriage both sisters' dowry instruments were signed: their father Giuseppe gave them 3,000 *scudi* of Milan each, while their mother Maria granted them 833 *scudi* each.¹⁹ Both parents signed the dowry instruments after the marriages of the two girls, as did the girls' fathers-in-law, who in their turn promised the *controdotte*, as was customary in that area.²⁰ These instruments were made on the basis of the Statutes of Vigevano, the town where the two sisters lived and would continue to live after their marriage.

At the turn of the century several new norms were enforced in the area where the Roncallis lived, which was then under French rule: in 1805, at the time of the girls' marriages, the *droit intermédiaire* was in force; in 1806, the Napoleonic Code would be applied. However, as Giuseppe and Maria Roncalli had already done with their first two daughters, the dowries of Vincenza and Teresa, too, were signed according to municipal statutes. In Vincenza's instrument, Filippo Mellana, father of Gioanni Francesco and acting on his behalf through a power of attorney, 'ha confessato, adnesso, e dichiarato, avere avuto, e ricevuto [la dote e] tutta la scherpa, o fardello', and promised that 'mai più né esso, né il suo signor padre, loro eredi, e successori gli chiederanno più cosa alcuna per quanto

was considered 'ipso iure per infame, sarà privato d'ogni dignità, o altro pubblico uffizio' (Art. 11, p. 354-55).

¹⁸ De Poenis, Lib. IV, *Constitutiones Mediolanensis* (Milan: Marelli, 1764), p. 255.

¹⁹ L. Malavasi, *La Metrologia Italiana, nei suoi scambievoli rapporti desunti dal confronto col sistema metrico-decimale* (Modena: Malavasi and Compagno, 1844), p. 284. The *scudo* or *scudo effettivo* of Milan roughly corresponded to 6 Milanese *lire*, 3.89 Piedmontese *lire*, 4.61 Piedmontese new *lire* and 4.56 Italian *lire*.

²⁰ AST, Casale, Corte di Appello, First Quarter of 1849, n. 31.

sopra, a pena dei danni, interessi e spese in giudizio e fuori'.²¹ The instrument also reported that, if Giovanni died before Vincenza, the dowry was to be returned increased by 20 per cent (*controdotte*). If instead she were to die before him, and the couple had no children, only half the dowry was to be returned (this gain was known as *lucrum dotis* and will be analysed in the next chapter). The *controdotte* and the *lucrum dotis* were common customs of that area, whereas some statutes of the Italian peninsula explicitly mentioned these provisions.

Interestingly, the act also stated that Maria Longhi, Vincenza's mother, gave 833 *scudi*

coll'assenso, e pieno consenso del nominato di lei consorte signor Giuseppe Roncalli, quanto anche per ogni maggior abbondanza delli signori Cappellano in questa Regia cattedrale Pietro Paolo fu signor Giovanni Antonio, e Giacomo ambi Longhi del vivente Giovanni Battista, qui nati, ed abitanti, quali conoscendo utile il presente contratto le danno e prestano il loro assenso, e consenso.²²

Pietro Paolo and Giacomo were cousins of Maria Longhi and were not required by law to authorise her to undertake this act, but, as written in the instrument, this was nevertheless done 'per ogni maggior abbondanza'. As we saw in Chapter 3, male relatives were a sort of reference point from the family of origin to whom a woman could report in case of need. Their inclusion in the signature of these acts was also a way of insuring themselves against potential future disputes.

The act constituting Teresa's dowry was similar to that of Vincenza, and was signed by Evasio Gallone, on behalf of his son Antonio Maria.²³

On 30 March 1831, Maria Longhi died. In her will, dated 6 June 1817, she left all her patrimony to her only son Vincenzo. She added that a dowry equal to those of Vincenza and Teresa was to be given to the remaining daughters, Giuseppa and Rosa Anna, who at the time when she drew up her will were not yet married. She also pointed out that if Giuseppa and Rosa Anna wanted to become nuns, Vincenzo would have to give them 'vita loro natural durante un annuo livello di lire duecento cinquanta di Milano, eguali a lire cento novantuna, e centesimi ottantotto nove di Piemonte da pagarsi a semestri maturati'.²⁴ If

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid..

they were to die unmarried, the 833 *scudi* they would otherwise receive should not be shared with the other daughters but would go to Vincenzo.²⁵ Giuseppa married just a year after her mother's will was written, in 1818, and Rosa Anna in 1828, but Maria had not made any change to her testament.

On 15 July 1834, three years after Maria's death, her husband also died. In his will, made on 24 September 1819, Giuseppe Roncalli 'supplement[ed] the rules of law concerning inheritance',²⁶ leaving all his patrimony to his son Vincenzo whilst bequeathing 100 coins of pure gold to each of his daughters and to his grandchildren, Marianna Sanchioli, daughter of Giacoma, and Carolina, Evasio, and Giacoma Gallone, children of Teresa, who, by 1819, had already passed away. These legacies were to be paid out a year after his death and without any interest. Giuseppe also added that they could have these coins only if they did not bother Vincenzo with further requests. To Rosa Anna, the only daughter who at the time he drafted his will was not yet married, he left the same amount of money he gave to his other daughters as a dowry. Rosa Anna eventually got married in 1828, but, at the time of her father's death, had already died. That of Giuseppe Roncalli could be described as 'an unchanging legal image of the father who knows best and always does right by his children and substance':²⁷ a typical *paterfamilias*, whose major concern was the transmission of his property to the right person, who, in this case, was his son. One might argue that Giuseppe's will favoured his daughters and grandchildren, rather than his son Vincenzo: as we saw, according to the law in force (the *Regie Costituzioni*) women were excluded from inheriting, and the price of their exclusion was a dowry. Hence, they were not entitled to receive any further goods or money if already dowered, contrary to what happened in this case. However, the fact that Giuseppe died fifteen years after drawing up his will and had not even considered the marriage and the death of his daughter Rosa Anna allows room to think that his major concern was to benefit his son, who would become the new *paterfamilias*, and to prevent the fragmentation of his patrimony, a dreadful scenario he witnessed as possible during the French conquests, just thirty years earlier.

Three months after his father's death, Vincenzo gave the 100-coin legacy included in his father's testament to his sisters, to his nephew Evasio and to his two nieces Marianna

²⁵ Ibid.

²⁶ Kuehn, *Family and Gender*, p. 225.

²⁷ Ibid., p. 346.

and Giacoma. The other niece, Carolina, was already dead. As we saw, in his will, Giuseppe Roncalli prescribed that, if in the meanwhile any of his daughters or grandchildren died, their legacy should not be given to their surviving heirs. Vincenzo, however, decided to donate Carolina's legacy to Evasio and Giacoma, rather than keeping it for himself. He did the same with his sister Rosa Anna's children, whose mother was already dead by then, and who, based upon the will, were not entitled to receive any legacy. The recipients of the legacies signed an act by which they declared that they would not ask for any more money. Vincenzo's generosity might have relied on the fact that the patrimony he inherited was so large that 200 coins of gold were not much to him, and, by doing so, he might have hoped not to allow any room for further disputes. The fact that he gave these legacies nine months earlier than the prescribed time also seems to confirm this assumption.

Despite formally renouncing any further claim, on 11 March 1842, Teresa's children together with Vincenza sued Vincenzo before the court of Vigevano. Their claim was that both sisters (Teresa and Vincenza) married under the *droit intermédiaire*, and Law 6 Thermidor V (24 July 1797) provided that a dowry alone would not exclude women from further inheritance. In this case, their parents had excluded them from their wills, but they were still entitled to obtain the *legitima portio*, a fourteenth of Maria's and Giuseppe's patrimony, given that they had seven children. Moreover, they claimed that, at the time of their marriages, Vincenza and Teresa were not able to validly renounce their rights, because they did not know the exact value of their parents' patrimony, which they now estimated to be worth two million *lire*.²⁸ Their brother Vincenzo Roncalli, instead, argued that both their parents had died at the time when the *Regie Costituzioni* and the Statutes of Vigevano were again in force, and prescribed that they were just entitled to an appropriate dowry.

It took three years to have the first ruling and, on 14 June 1845, the tribunal of Vigevano directed that, although Law 6 Thermidor V allowed women to inherit, these rights were granted only if these norms were still in force at the time of their parents' death. Therefore, the case was to be decided on the basis of the *Regie Costituzioni*, which, 'trattandosi d'escludere le femmine dalle successioni ab intestato, ravvisavano congrua quella dote, quand'anche tenuissima, purché fossevi susseguito l'onesto ricapito della dotata'.²⁹ In this particular case,

²⁸ Two million *lire* were worth 433,839 *scudi*.

²⁹ AST, Casale, Corte di Appello, First Quarter of 1849, n. 31

in cui non trattasi di successione ab intestato, congrua devesi ritenere la dote costituita alle Vincenzina, e Teresa sorelle Roncalli, dacché tale venne dichiarata nel testamento paterno e tale venne pure riconosciuta dalli Mellana, e Gallone rispettivi mariti delle dette sorelle Vincenzina e Teresa, non che dai loro genitori dai quali vennero tali doti esatte senza punto muovere querela sulla incongruità loro.³⁰

The tribunal also argued that Giuseppe, the *paterfamilias*, had explicitly requested that his daughters should not ‘molestare l’erede’: by accepting his legacy, Teresa’s children and Vincenza had demonstrated a perfect understanding of the testator’s will, and had no reason to insist.³¹

But the lawsuit was far from over: they appealed before the Senato of Casale, a Piedmontese high court, which, in order to reach a decision, evaluated all the documents presented by both parties. The lawyers of Vincenza and Teresa’s children maintained that there were some points that could overturn the previous decision: first of all, as they did in the previous instance before the court of Vigevano, they reasserted that Law 6 Thermidor V, which did not exclude women from inheritance, was in force when the two women married; second, their dowries were not constituted in the presence of Vincenza and Teresa, and, particularly, at the time of their constitution the two women were already married and ‘queste circostanze bastano ad escludere li concetti di doti congrue, od incongrue’; third, their dowry instruments were void because drawn up on the basis of the Statutes of Vigevano, which could not be enforced as, at that time, the *Regie Costituzioni* had already been enacted. These were the law of the whole Kingdom of Sardinia and could not be overridden by the law of a town, as municipal statutes were.³² The appellants also insisted, once again, that they did not know the exact amount of the parents’ patrimony when they signed the acquittance after receiving the 100-coin legacy, and offered to prove this by oath. They claimed that Maria’s patrimony was worth 300,000 *lire* in estates; Giuseppe had properties in Vigevano and Novara worth 700,000 *lire*, 20,000 *lire* in chattels and a further 800,000 *lire* in money and funds held in banks of Milan and Piedmont.

In the vision of their parents, the Roncalli daughters were going to enrich other

³⁰ Ibid.

³¹ Ibid.

³² Ibid. On hierarchy of legal sources, see also A. Liva, *La gerarchia delle fonti di diritto nelle città dell’Italia settentrionale* (Milan: Giuffrè, 1976).

families through their dowries and have children not bearing their names: their son, by contrast, was going to ‘preserve’ and ‘perpetuate’ the Roncalli name and was worthy of an amount of wealth that would allow him to become a *paterfamilias*, that is, the head of a patriarchal and upstanding family as his father had been. Accordingly, the daughters were deemed worthy of obtaining 3,833 *scudi* each, while Vincenzo inherited roughly 410,000 *scudi*. Against the appellants’ argument, Vincenzo’s lawyer affirmed that the inherited patrimony was not that large, but any investigation to estimate its exact amount was ‘superflua e senza scopo’, because the Statutes of Vigevano ruled that women could only obtain an appropriate dowry, no matter if given before or after marriage.³³ The exact amount of an appropriate dowry was not mentioned in these Statutes, but, as Vincenzo’s lawyer claimed, it could be inferred from the sixteen documents he presented. These described dowries given to ‘femmine vigevanasche’, from 1795 to 1806 and from 1814 up to 1836, and represent a further source of information about the customs of the town of Vigevano: alongside the value of dowries, they also allow us to better understand the social and economic fabric of the area. In 1795, for example, Francesca Mantegazza, a ‘femmina vigevanasca’, married the physician Ignazio Clerici with the consent of her father Pietro Giorgio Mantegazza, and was given an 8,000-*lira* dowry (1,735 *scudi* of Milan). Francesca considered this dowry appropriate as provided by the Statutes of Vigevano, and accepted it with ‘l’intervento, pieno consenso e approvazione del suo signor marito’.³⁴ Her husband authorised her to accept this dowry ‘perché riconosce cedere le cose suddette in evidente utilità e vantaggio della detta sua moglie’.³⁵ Maria Gusberti, another ‘vigevanasca’, married Federico Rainoldi in 1801 and, after her marriage, received a 21,000-*lira* of Milan dowry (3,500 *scudi*), plus a *fiardello* worth 3,000 *lire* (500 *scudi*). She confirmed that its constitution was ruled by the Statutes of Vigevano. Teresa Negroni, too, received her dowry after her marriage with Francesco Fusi in 1815: its value was 25,000 *lire* of Milan while her *schierpa* was worth 2,800 *lire*. Lucia De Previde Massara married Cavalier Zeffirino Calleri di Sala in 1827, and received a dowry worth 25,328 *lire* (5,494 *scudi* of Milan) from her father Ignazio. The dowry was constituted a year later, with an act dated 30 June 1828, and given to her father-in-law Francesco Zeffirino, who was a member of the Reggimento

³³ AST, Casale, Corte di Appello, First Quarter of 1849, n. 31.

³⁴ Ibid.

³⁵ Ibid.

Cavalleggeri Savoia, a prominent cavalry unit.

These dowries had been given to women, whose status – according to Vincenzo’s claims – was comparable to that of the Roncalli family, who were landowners. However, only one of the sixteen documents produced, that regarding Lucia De Previde Massara’s dowry, exceeded the dowries of the Roncalli women. The other dowry instruments provided by Vincenzo’s lawyer concerned families of lower status and were very scant. Giovanna Carnevale, for example, married Felice Bassi in 1795 and received a 266.10-*lira* (57.7 *scudi*) dowry. In the same year, Maria Delbuono married Giovanni Battista Zorzoli. Her dowry, worth 133 Piedmontese *lire*, was paid by her brother on the basis of their father’s will. The dowry of Maria Riva, who married Gioanni Acquotta in 1817, was scant, too. She received only 380 *lire*. Finally, Regina Ornati married Pietro Dondena in 1838, and received her 740-*lira* dowry from her brothers, as provided in their father’s will.

Vincenzo’s lawyer claimed that also the cases of two other families, the Pellegrini and the Rabezzana, should also be taken into consideration as judicial precedents, in order to reach a fair decision. The former case was cited to show that the Pellegrini sisters – Maria, Angelica and Maddalena – won their cause against their brothers Michele and Bartolomeo because their dowry instruments lacked the formal requirements needed by this kind of act. As both their parents died *ab intestato*, the father in August 1833 and the mother in December 1829, the Pellegrini sisters asked their brothers to give ‘una esatta e fedele consegna dell’eredità paterna e materna’:³⁶ this would allow them to assess their ‘dote congrua’ based on their father’s and mother’s patrimony. They maintained that their dowries had to be at least close to the value of the *legitima portio*, that is, an eighteenth of the patrimony, as there were seven daughters and two sons. They claimed that their father’s assets were worth 70,000 *lire*, while their mother’s goods consisted of 3,400 *lire*. As the *Regie Costituzioni* excluded women from inheritance, they had to receive the ‘price’ of this exclusion, which was worth ‘una congrua dote ragguagliata sulla legittima’.³⁷ Moreover, they asserted that they had to obtain ‘tante [...] le doti, quante le successioni, attesoche erano il prezzo dell’esclusione’,³⁸ a point contradicting the argument presented earlier in *Annali di giurisprudenza*, which highlighted that a properly dowered woman was not entitled to

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

obtain any addition to what she had already received.

Michele and Bartolomeo Pellegrini produced three instruments dated 21 September 1824, 21 September 1825 and 6 April 1832, which showed that their sisters' husbands had received 1,300 *lire* each and promised not to 'inferirli né permettere che loro venisse inferta molestia'.³⁹ They added that their sisters' dowries were appropriate because they had allowed them to be 'onestamente recapitate', according to the status of their families and customs of Boves, the village – 100 km away from Turin – where they lived. On 7 April 1843, the Senato of Piedmont directed that the three acts were not formally valid dowry instruments and that their contents did not explicitly recognise the dowries as 'congrue'. The three instruments had been signed by Giacomo Peano, father-in law of Maddalena, by Giuseppe Cavallo and Giuseppe Pellegrini, husbands of Angelica and Maria, respectively, but none of the women were present. The father-in-law and the two husbands declared themselves satisfied with the amount of the dowries, but did not dismiss the possibility of future claims. Vincenzo Roncalli produced this case to demonstrate that the grounds for this judgement, made in favour of the women, was that these instruments were not drawn up in the correct way. Conversely, Vincenzo maintained that in his own case all the formalities required by law had been observed.

The other case brought in by Vincenzo's lawyer was that of the Rabazzana family. The *paterfamilias*, Giuseppe, died on 9 November 1835 after making up his will on 17 January of the same year. He bequeathed the sum of 1,500 *lire* to each of his two daughters, Teresa, married to Giuseppe Bonino, and Maria, married to Carlo Massa. All his other assets were to be inherited by his son Bartolomeo and his grandsons Giuseppe and Francesco, children of his deceased son Francesco. Since the two women had married under French laws, Teresa had not received any dowry, while Maria obtained 1,000 *lire* 'pour avancement d'hoire' together with a 1,300-*lira* trousseau, on 21 September 1810.⁴⁰ Maria, together with the heirs of Teresa, who died in 1839, asked for the *legitima portio* estimated at 8,000 *lire* over Giuseppe's patrimony, which was worth 100,000 *lire*. After the judgement made by the tribunal of Asti in favour of Teresa's heirs and Maria on 27 May 1843, Bartolomeo and Giuseppe's grandsons appealed before the Senato of Piedmont. On 30 January 1844, the court reversed the previous sentence by arguing that a dowry was not an indisputable

³⁹ Ibid.

⁴⁰ Ibid.

hereditary right. Its amount was not certain, because ‘non sempre il patrimonio del dotante è giusta norma per misurare la congruità’.⁴¹ The court maintained that Maria and Teresa were not able to produce any evidence to confirm that they did not know the exact amount of their father’s patrimony when they accepted the 1,500-*lira* legacy. As they were ‘assistite massimamente [...] sempre dai mariti loro’,⁴² they had consciously accepted the bequest, which would prevent them from undertaking any further act. The women,

non avendo [...] potuto ignorare il disposto del testamento del padre soprattutto nella parte che le concerneva, non potevano dubitare che il padre stesso non aveva riputata sufficiente la somma loro sborsata nell’atto del rispettivo matrimonio per dirle congruamente dotate, a segno di poterle senz’altro escludere dalla sua successione.⁴³

This case was produced by Vincenzo as evidence that, by accepting the 100-coin legacy, his sisters were aware of their father’s patrimony and thus they validly renounced any further claim. Despite all Vincenzo’s efforts to support his argument, the judgement of the Senato of Casale was not in his favour. The tribunal maintained that the Statutes of Vigevano were valid only with regard to the norms not included in the *Regie Costituzioni*, and ‘furono solo mantenuti in quelle parti che non ripugnassero alle Costituzioni medesime’.⁴⁴ It was pointed out that, in order to exclude women from inheritance, these Statutes did not require a dowry to be ‘congrua’, whereas the *Regie Costituzioni* prescribed that a woman’s exclusion was permitted only against an appropriate dowry, with Article 6 explicitly defining the requisites of this concept. The court added that, if forms of compensation other than an appropriate dowry were taken into account for the exclusion of women from inheritance, the provisions of the *Regie Costituzioni* would be overridden. In particular,

non è sfuggito alla sapienza di Carlo Emmanuele III come l’eccessivo desiderio di conservazione delle famiglie che cotanto dominava in que’ tempi si dovesse pure conciliare coll’amor naturale che nelle leggi di successioni era stato norma all’Imperator Giustiniano; non gli sfuggiva neppure come un soverchio concentramento di ricchezze possa talvolta tornar pregiudicevole, quindi con una apposita disposizione fissava

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

i limiti dell'esclusione delle figlie dalla successione paterna, ossia quale dovesse essere il corrispettivo di tale loro esclusione.⁴⁵

The Senato suggested that the 'sapienza' of King Carlo Emmanuele III enacted rules favouring women, but what emerges from these words is much more the concern about a possible 'concentramento di ricchezze', which had to be limited if not avoided altogether. The 'conservazione delle famiglie' was considered crucial but had to be pursued within appropriate norms such as those included in the *Regie Costituzioni*. The preservation of families was a goal also taken into consideration by the Statutes of Vigevano, but 'la legge dominante esige come di rigore certi e determinati mezzi per conseguirlo; la legge particolare non li cura ed inumanamente li sprezza'.⁴⁶ Departing from the 'legge dominante', that is, the *Regie Costituzioni*, and asserting that the dowry instruments were valid private agreements could not be acceptable as even Roman law provided the maxim 'ius publicum privatorum pactis mutari nequit' (the law could not be disregarded by private agreements).⁴⁷

Even if 'non havvi contestazione sull'onesto recapito delle dotate', a father was obliged to provide his daughters not just with a dowry, regardless of its value, but with an appropriate one. The constitution of a dowry was a formal act that had to be accepted by the dowered girl, and, in this case, no reference was made to any acceptance or consent given by Vincenza and Teresa. Indeed, 'si richiede che dallo stesso atto risulti non solamente dell'assegno di detta dote dal canto del padre, ma eziandio del consenso espresso o tacito per parte della figlia di accettare la dote medesima', and this consent was absolutely necessary and was to be 'almeno presunto'.⁴⁸ Chiara Saraceno pointed out that women's rights were difficult to assert before a court,⁴⁹ but their consent to acts which involved their rights was necessary. This is highly paradoxical: women were deemed able to understand the value of goods, that of their dowries in this case, a point strongly conflicting with the

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ On this point, see, for example, the analysis of C. Saraceno, 'Le donne nella famiglia: una complessa costruzione giuridica. 1750-1942', in Barbagli and Kertzer, eds, *Storia della famiglia italiana, 1750-1950*, pp. 103-28 (pp. 105-10).

founding idea of marital authorisation or other kind of authorisation needed by women to undertake legal acts.

The sixteen dowry instruments presented by Vincenzo's lawyer played in the appellants' favour. Given that no law defined the exact amount of a dowry, the court argued that the maxim 'dos congrua illa dicitur quae respondet facultatibus mulieris atque utriusque coniugis dignitati: ratione quoque habita consuetudinis quae in regione seu familia servatur',⁵⁰ quoted by jurisprudence, and, in particular, by the influential Piedmontese jurist Tommaso Maurizio Richeri,⁵¹ allowed room to calculate the value of a dowry by considering the *legitima portio*, 'se non in modo rigoroso, almeno approssimativo'.⁵²

The Senato of Casale ruled that, even if, at the time of their parents' death, the *Regie Costituzioni* were in force again, the dowries of the two Roncalli sisters 'non valevano ad altro titolo che ad anticipazione di eredità', because Vincenza and Teresa were 'non presenti e non stipulanti',⁵³ and had not signed any document in which they renounced their lawful portion of inheritance. In other words, Vincenza and Teresa's heirs were entitled to receive an addition to the dowries given at the time of their marriages. There are no further archival documents that provide evidence of how the case was settled between Vincenzo and the appellants: we can assume that Vincenza and the heirs of Teresa obtained a sum of money close to the *legitima portio*, 30,988 *scudi* of Milan or 142,857 *lire*, which corresponds to the fourteenth part of the Roncallis' patrimony. As we saw, this was worth two million *lire*.

3. Negotiating their exclusion: the Marchisone sisters

The case of the Roncalli family did not stand alone, and allowed room for similar decisions. Another case in point is that of the Marchisone family from which we can again infer the

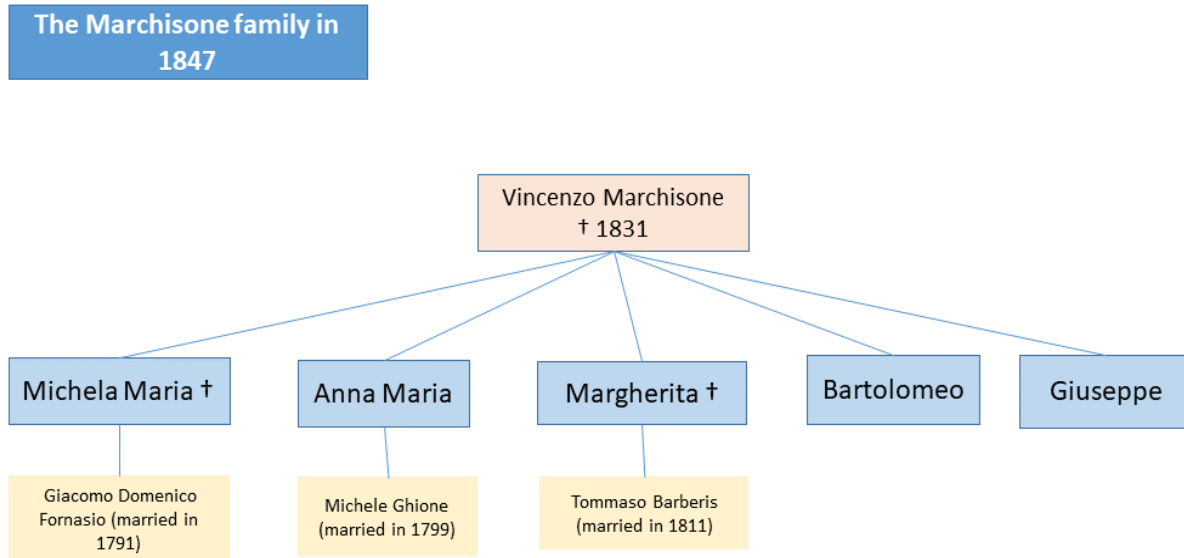
⁵⁰ 'The appropriate dowry is the one which corresponds to the wealth of the bride and to the dignity of the spouses; also by considering customs followed both in the area and within their family'.

⁵¹ Tommaso Maurizio Richeri (1733-1797) was a Piedmontese jurist. His major work *Universa civilis et criminalis iurisprudentia iuxta seriem institutionum ex naturali et romano iure deprompta et ad usum fori perpetuo accomodata* (1774-1782) was considered fundamental to learn and understand Roman law.

⁵² AST, Casale, Corte di Appello, First Quarter of 1849, n. 31.

⁵³ *Ibid.* See also *Giurisprudenza Italiana*, 2 (1849), 671-97 (p. 694).

considerable difference between women and men in matters of inheritance rights.⁵⁴



The members of the Marchisone family lived in the province of Turin, in the towns of Ajasca (now Airasca), Orbassano and Villafranca. Vincenzo was the *paterfamilias*, and had three daughters, Michela Maria, Anna Maria and Margherita, and two sons, Bartolomeo and Giuseppe. On 11 June 1791, Michela Maria Marchisone, together with Giacomo Domenico Fornasio from Ajasca, whom she had married a few months earlier, appeared before a notary to receive her dowry from her father Vincenzo. She obtained the amount promised before her marriage, 2,000 *lire* in cash, gold and silver, along with the *fordello*. The two spouses declared to be ‘soddisfatti tanto per la dotte quanto per il fardello che dichiarano di aver ricevuto nella conformità’, and not to ask for any more money.⁵⁵ Giacomo Domenico also followed the ‘lodevole consuetudine di questo luogo’, which consisted in his promise to constitute a *controdotte* worth a third of the dowry itself. He thus vowed that he would ‘il tutto conservare, e custodire, rendere e restituire [...] in caso di soluzione di matrimonio o altro legittimo contrario evento il che Dio non voglia [e di confermare] la quota consuetudinaria quanto ai reciproci guadagni e lucri dotali’.⁵⁶

A few years later, in 1799, Anna Maria, sister of Michela Maria, married as well. On 10 Messidor IX, that is 29 June 1801, as Piedmont was already under French rule, Anna

⁵⁴ A short summary of this case can also be found in *Giurisprudenza degli Stati Sardi* (1852), 141-43.

⁵⁵ AST, Notaio Giovanni Pietro Ellena, 1791, n. 2262.

⁵⁶ *Ibid.*

Maria, her husband Michele Ghione and her father-in-law appeared before the same notary in order to receive the dowry. This time, the *paterfamilias* provided a 3,000-*lira* dowry and the trousseau. This dowry, too, was given in cash, gold and silver, and was ‘dalla stessa Anna Maria presso di se rittirata, e quindi col pieno consenso del suo marito *brevi manu* rimessa al suo suocero Felice Ghione di Orbassano’.⁵⁷ Like her sister, Anna Maria regarded herself ‘sufficientemente dotata secondo il suo stato e qualità tanto per le ragioni paterne che materne, vi ha perciò a queste rinunciato’.⁵⁸ Both her husband and her father-in-law promised the *aumento dotale (controdotte)* of one third of the value of the dowry, as ‘la lodevole consuetudine di questo comune’ provided.⁵⁹ Vincenzo Marchisone also constituted a dowry to his third daughter, Margherita, promised to Tommaso Barberis from Villafranca. Her dowry was worth 3,000 *lire* plus a 1,400-*lira* trousseau. This act was signed on 8 October 1811, before her actual wedding.⁶⁰

On 10 March 1847, Anna Maria Marchisone and the heirs of her two sisters Michela Maria and Margherita, already deceased by then, initiated a cause before the Tribunal of Pinerolo, the competent court for the area where they lived. They sued Bartolomeo and Giuseppe, sons of Vincenzo, who died in 1831, leaving a 100,000-*lira* patrimony. In his will, made up on 20 November 1828, Vincenzo had declared that, since his daughters were already dowered, his two sons Bartolomeo and Giuseppe were to be the sole heirs of all his assets. The Tribunal of Pinerolo ruled that the plaintiffs were not entitled to receive any portion of Vincenzo’s patrimony, but requested a further check with regard to Margherita’s case. Her dowry had been constituted before her marriage, when the *Civil Code of the Kingdom of Italy*, known as Napoleonic Code, was in force. Nevertheless, as her father died under the regime of the *Regie Costituzioni*, its appropriateness was to be measured on this basis, which – as we have seen – ruled that women were not entitled to receive any further goods or money if already dowered. In addition, in the years from her marriage up to Vincenzo’s death, ‘non fu mai elevato dubbio che la stessa famiglia non fosse pienamente soddisfatta di ogni sua ragione’, and, furthermore, ‘la querela d’inofficiosità contro il testamento paterno competendo ai figli ingiustamente diseredati dal padre, non presenta nemmeno una analogia alla domanda di supplemento di dote mossa dalli padre e figli

⁵⁷ AST, Notaio Giovanni Pietro Ellena, 1801, n. 2271.

⁵⁸ AST, Tribunale di Pinerolo, Sentenze civili, First Quarter of 1847, n. 60.

⁵⁹ Ibid.

⁶⁰ Ibid.

Barberis'.⁶¹ However, because Margherita had not signed a receipt accepting the dowry to be 'congrua', her brothers Bartolomeo and Giuseppe were ordered to present documents that would allow her heirs to assess its appropriateness. In the case of Michela Maria and Anna Maria, their dowries were formally constituted after, but had been promised before, their marriages, when the *Regie Costituzioni* were in force. Therefore, the tribunal maintained that 'non si mosse neppur dubbio in atti, che queste due figlie Marchisone siano state onestamente ricapitate con quella rispettiva dote'.⁶²

In absence of any documents that testify to further actions taken against Bartolomeo and Giuseppe, we may presume that the issue regarding Margherita's dowry was somehow resolved through a private agreement. Anna Maria Marchisone and the heirs of her sister Michela Maria, instead, appealed to the court of Turin. On 26 April 1850, the court ordered Bartolomeo and Giuseppe to give 'esatta e fedele consegna' of the inherited patrimony.⁶³ This would allow the appellants to estimate if the dowries given to the two sisters were 'congrue', as showed in the disquisition described earlier in this chapter.

The two brothers refused to execute this order and appealed to the Corte di Cassazione, the court of last appeal: in its decision of 5 January 1852, the court condemned them to pay a 'congrua' dowry to Anna Maria and Michela Maria's heirs. The Corte di Cassazione explained that women's exclusion from the right to co-succeed with their brothers to parental inheritance was compensated by the right to a 'congrua' dowry, and this right was to be guaranteed.⁶⁴ Indeed, for the sake of justice, a daughter was entitled to discuss the compensation and the price for her exclusion from her relatives' inheritance,

prima ancora di abbandonare la casa e famiglia paterna, per passare a far parte o ad essere origine di altra famiglia, prima di divenire ad un patto che importasse od involvesse in sé una rinuncia ad ogni diritto sulla successione dei propri ascendenti, se il matrimonio consideravasi come apertura della successione a di lei profitto.⁶⁵

⁶¹ The *querela inofficiosi testamenti* was a means provided by Roman law, which allowed an heir who had been disinherited or passed over without valid reason to initiate a lawsuit and request the annulment of a will. See *Digest*, 5.2.1-32; *Codex*, 3.28.1-36. See also *Giurisprudenza romana ossia corpo del diritto civile romano volgarizzato col testo a fronte* (Milan: Baret, 1815), pp. 165-67.

⁶² AST, Tribunale di Pinerolo, Sentenze civili, First Quarter of 1847, n. 60.

⁶³ AST, Giudice di Appello, Sentenza Civili, April 1850, n. 315.

⁶⁴ AST, Corte di Cassazione, 1852, 9, n. 242.

⁶⁵ *Ibid.*

The ground on which this judgement relied was the fact that the two sisters were already married when their dowries were constituted. In other words, their dowries were constituted *after* their marriages, and consequently they had not been given the possibility to discuss the compensation for their exclusion from inheritance, before being involved in a lifelong and irrevocable bond as wedlock was.

These cases show that nineteenth-century law in action did not always have an unquestionable outcome: judgements were often completely reversed by other courts, and judges did not even feel morally bound to the judicial precedent. The dowry, the great importance of which has been demonstrated by the analysis of these cases, was by all means intended to ‘provvedere ai bisogni e decoro della famiglia’. Hence, its value was carefully assessed by women as well as by their husbands and heirs, who tried to obtain as much money as they could without hesitating to resort to a judge and going through several instances before reaching a final, and hopefully positive, verdict. Even though they abided by the legal system and shared a common view of women’s status, courts accurately examined all circumstances and carefully considered women’s rights to obtain further money from their parents’ inheritance. The point that the Roncalli and Marchisone sisters had not been allowed to negotiate their exclusion from inheritance, because the former were absent when their dowries were constituted, and the latter were already married, highlights an interesting issue: women did not just have to comply with someone else’s decision, but were given the possibility to discuss and assess the value of their dowry. Although it is difficult to understand the extent of negotiations a woman could undertake before obtaining a dowry, the two cases demonstrate that courts allowed them to have a say. The nineteenth-century family, therefore, was still ‘fondata su rapporti asimmetrici, generatrice di tensioni e di conflitti ma anche articolata in modo da offrire spazi alle figure “minori”’.⁶⁶ As also Cesarina Casanova argued: the real position of each member was the result of a continual negotiation.⁶⁷ This does not mean that women had the legal capacity of individualised choices and actions, but that the limits of their inclusion or exclusion could be fluid and negotiable.

⁶⁶ M.A. Visceglia, ‘Introduzione’, in M.A. Visceglia and R. Ago, eds, *Signori, patrizi, cavalieri in Italia centro-meridionale nell’età moderna* (Rome: Laterza, 1992), pp. v-xxxiii (p. xxiii).

⁶⁷ Casanova, *La famiglia italiana*, p. 148.

In 1837, the new code promulgated in the Kingdom of Sardinia permitted all legitimate children or their descendants to succeed in their relatives' *ab intestato* inheritance. Nonetheless, by allowing the 'subingresso', the code still marked a different hereditary regime between men and women. Although new ideas regarding women and their roles in society began to spread along the Italian peninsula, the heritage of the *Ancien Régime* remained strong and persistent, and the importance given to agnation continued to be broadly accepted and praised by families.

4. Women and wills in Lombardy-Venetia: overriding the law

Far from constituting a rational framework, the fluid boundaries of nineteenth-century law allowed room for discussion and legal disputes, which, nevertheless, did not always have a clear outcome. Alongside the coexistence of several laws in each state, courts often had to deal with cases regarding people, properties and laws from different states. In such a context, people tried to tackle the arising issues, and, in doing so, often overrode the law. Moreover, in Lombardy-Venetia, where all children had the same inheritance rights regardless of their sex, some people tried not to comply with this rule by making wills that favoured sons.

A case in point is that of Speranza Sacerdote, a woman who lived in Casale, a town in Piedmont, and sued her brothers to obtain a portion of the assets her deceased father owned in Lombardy-Venetia.⁶⁸ When she married Raffael Vita-Levi, in 1808, her father gave her a sum of money as a dowry, explicitly stating that this was only an advance on his inheritance. On 19 May 1830, Speranza received from her father another 13,000 *lire* and, subsequently, declared to be 'onestamente ricapitata, congruamente dotata e sufficientemente provvista sul di lui patrimonio'.⁶⁹ Her father, together with his sons, simulated a sale to ensure that his properties in Lombardy-Venetia would not be subject to the Austrian law that allowed daughters to have succession rights in addition to the dowry. Speranza initiated a litigation, asking to inherit her lawful portion of her father's assets in

⁶⁸ AST, Casale, Corte di Appello, Second Semester of 1853, n. 45. An overview of this case can also be found in *Giurisprudenza degli Stati sardi* (1853), 655-60. Casale is a town in the Monferrato area, which is now called Casale Monferrato. However, in judicial proceedings it is just cited as Casale.

⁶⁹ *Ibid.*, p. 656.

Lombardy-Venetia. On 25 July 1853, the court of Casale stated that the act of sale registered on 13 October 1831 was a simulation, and that Speranza was entitled to obtain a portion of those properties as provided by the Austrian code.

Such a decision is extremely important because it was made by a Piedmontese court, which trespassed its jurisdiction to rule over a contract affecting properties abroad, allowing a woman to obtain an additional amount of wealth. Despite her declaration of being ‘onestamente ricapitata’, Speranza could still ask for more goods by demonstrating that what she had received matched neither her father’s patrimony, nor the amount normally given to women by other families of similar status. The court concluded that abdication of rights was always linked to the appropriateness of the dowry: if it was not appropriate, there was room for further claims. The contradiction between written law, law in action and jurisprudence is evident: even though she was married, and a married woman was always considered to be ‘congruamente dotata’, Speranza could inherit. One might argue that the court of Casale clearly agreed with the point made in the Roncalli case, that is, ‘un soverchio concentramento di ricchezze possa talvolta tornar pregiudicevole’. Its decision to allow a woman to obtain more money was therefore meant to split large patrimonies and impede the concentration of wealth in the hands of few people. In this case, even though these properties were abroad, their income would have further improved the economic power of the Sacerdote family.

As previously mentioned, in Lombardy-Venetia, the *Codice civile universale austriaco pel Regno Lombardo-Veneto* allowed all children to inherit equally from their parents. The constitution of a dowry was permitted and considered as an advance on parental inheritance. However, in this state, as elsewhere, the custom of making up wills was widespread among all social classes, and often aimed to grant more rights to sons to the detriment of daughters. In other words, it was a way to circumvent the law and to allow testators to bequeath a large part of their patrimonies to those of their choice.

The next case was reported in *Giurisprudenza pratica secondo la legislazione austriaca*,⁷⁰ a journal of jurisprudence published in Milan. It describes a situation similar to

⁷⁰ The journal *Giurisprudenza pratica secondo la legislazione austriaca attivata anche nel Regno Lombardo-Veneto o sia collezione di decisioni sentenze e decreti in materia civile commerciale criminale di diritto pubblico* was published in Milan from 1817 to 1833; its name then changed to *Giurisprudenza teorico-pratica secondo la legislazione austriaca o sia Collezione di decisioni sentenze e decreti in materia civile commerciale criminale e di diritto pubblico* (1836-1845).

many others in nineteenth-century Lombardy-Venetia, in which a father, Giovanni Battista Guarrini, bequeathed to his daughter the *legitima portio* only. Giovanni Battista was a nobleman who lived in Crema, a town 50 km away from Milan. He died on 22 July 1824 and left a will rogated by the notary Giovanni Battista Tensini. To his daughter Marianna, he bequeathed what was due to her by law, namely a quarter of his patrimony, and pointed out that she should ‘riunire alla mia eredità comprendere e computare nella di lei legittima la dote e schirpe da me testatore costituita all’atto del suo matrimonio, e da me per intero pagata’.⁷¹ The remaining three quarters of his patrimony were given to his son Giacomo Antonio,⁷² who had to guarantee the usufruct of a quarter of the whole patrimony, ‘tutto compreso e niente eccettuato’, to his mother, Paola Fracavalli. Paola was also entitled to get her dowry back. The testator had another son, Alessandro, who had left Crema several years earlier and had not been heard of since. As in many other cases, the domestic strategy of fathers ‘contavano tradizionalmente sul potere sanzionario riconosciutogli dal diritto successorio’,⁷³ thus punishing Alessandro by ordering that, should he come back, he could receive no more than a quarter of his father’s wealth.⁷⁴

Marianna was married to the wealthy count Paolo Premoli, and had six children. She was given 54,735 *lire austriache* as a dowry. At first, Marianna’s brother Giacomo complied with the testament of his father, and made the hotchpot of his sister’s dowry in the *legitima portio*.⁷⁵ Marianna was entitled to receive 13,683 *lire austriache*, which was also confirmed by the tribunal of Crema in 1826.⁷⁶ However, two years later, in 1828, Giacomo returned before the court to ask if, by law, the hotchpot of his sister’s dowry and trousseau was to be made by considering the hereditaments of their father, or just the forced heirship as their

⁷¹ *Giurisprudenza pratica*, 10 (1829), pp. 93-94.

⁷² In the Kingdom of Lombardy-Venetia, ‘la porzione legittima assegnata dalla legge a ciascuno de’ figli è la metà di quello che sarebbe pervenuto ad essi nella successione intestate’, see Art. 765, *Codice civile universale austriaco pel Regno Lombardo-Veneto*, in *Collezione completa*, p. 189.

⁷³ Cavina, *Il padre spodestato*, pp. 242-43.

⁷⁴ *Giurisprudenza pratica*, 10 (1829), p. 95.

⁷⁵ In order to secure equal division among heirs in an *ab intestato* succession, properties are fictitiously reunited through the so-called hotchpot. As is widely known, civil law systems do not recognise the total freedom of testators to dispose of their hereditaments. Therefore, the inheritance is composed of the portion, which could be freely disposed of, the free estate or discretionary portion, and of the indefeasible portion or forced heirship or *legitima portio*.

⁷⁶ *Giurisprudenza pratica*, 10 (1829), p. 98.

father had written in his will. The difference between reuniting the dowry with the *legitima portio*, or with the entire patrimony, was great. Indeed, if Marianna had to make the hotchpot by considering the legitime, she would receive the 13,683 *lire austriache* mentioned above; otherwise, she would not be entitled to obtain any further sum.

The tribunal of Crema ruled that the hotchpot was to be made considering the entire patrimony. This judgement was appealed before the tribunal of Milan, which refuted the decision, and then before the Supremo Tribunale of Verona, which abided by the decision made in Crema. Its outcome was described in the journal *Giurisprudenza pratica*, which claimed that ‘la tesi negli atti d’appello e di revisione nei quali presero parte anche li più reputati Giureconsulti del Foro di Milano’ was that the hotchpot was to be made on the value of the hereditament.⁷⁷ The issue debated in this lawsuit was very common in the nineteenth century, and was included in this journal in order to help judges in similar circumstances. Far from introducing anything new in nineteenth-century jurisprudence, it confirmed, instead, the ongoing habit of considering women as ‘caput et finis’ of their families, and therefore worthy of aspiring only to a dowry, or little more.

Provisions that debarred daughters from inheriting portions larger than the legitime were not uncommon, even in wills drawn up by women. Indeed, their behaviour strongly endorsed the idea that the man was the indisputable head of a family, and wealth was to revolve around him. Women’s rights, therefore, could be neglected and even given up for the sake of the family’s prestige and status. Several wills held in archives, for example, give evidence of mothers granting their entire patrimony (except for the *legitima portio*, to which heirs were lawfully entitled) to their sons. These mothers pointed out that their daughters had already been provided with good dowries, and had no motives to ask for more goods or money.

For example, Maria Teresa Albertini, a wealthy woman from Verona, married to a nobleman, Bartolomeo Raffoni Morardo, made her will on 5 October 1818. She had three children: Giuseppe, Anna Maria, a former nun, and Elisabetta, married to the nobleman Francesco Cavazocca. Having made religious vows, Anna Maria could not inherit, even if

⁷⁷ *Giurisprudenza pratica*, 10 (1829), 107-12. On the hotchpot, see also the disquisitions of three prominent jurists of the Austrian Empire, Vitaliano Oldrado, Vincenzo Augusto Wagner and Francesco Foramiti, reported in *Giurisprudenza pratica*, 10 (1829), 188-306.

she was no longer a nun.⁷⁸ Hence, her mother made her a bequest of 300 *lire* per year, which she had to receive from Giuseppe. Whereas the legitime was left to Elisabetta and Giuseppe, Maria Teresa bequeathed ‘tuttociò che la legge mi permette di disporre’ to her only son Giuseppe.⁷⁹ Another example is that of a widow also from Verona, Palma Naido, who in her testament drawn up on 6 July 1819, left the property of the disposable portion of her goods to her sons Pietro and Giuseppe, while the legitime was divided between all her five children, two sons and three daughters.⁸⁰ Finally, in her will rogated on 25 September 1857, Margherita Boschetti, from Milan, bequeathed all her assets to her son Paolo Pizzi.⁸¹ She ordered that her son had to pay a pension of 2.5 *lire austriache* per day to her husband, who also obtained the usufruct of the garden and the house where they used to live.⁸² Margherita then made a bequest of 7,000 *lire austriache* to the three children of her deceased daughter, and pointed out that her grandchildren had to accept her will ‘nel suo integrale tenore’,⁸³ as their mother had already obtained a dowry at the time of her marriage. If they failed to accept her will, they could only have the legitime over her patrimony, which, after having reunited their mother’s dowry, was less than the bequest made by Margherita.

The examples of these women, who limited the portion their daughters would inherit in favour of their sons, are particularly significant as they were all from Lombardy-Venetia. If some women living in areas where the dowry was their only right struggled to obtain more from their parents’ inheritance, other women seemed to strongly comply with the dowry system. This behaviour is even more striking in states where laws ruled that they could equally inherit. However, these co-existing attitudes could have been two sides of the same coin: women abided by the idea of entering ‘aliene famiglie’, and sought to contribute

⁷⁸ When making religious vows, monks and nuns supposedly became dead to the world. Their status was considered that of a civil death: consequently, they were not allowed to inherit. On this status, see A. Molho, ‘*Tamquam vere mortua*: le professioni religiose femminili nella Firenze del tardo Medioevo’, *Società e Storia*, 43 (1989), 1-44; J.G. Sperling, *Convents and the Body Politic in Late Renaissance Venice* (Chicago: University of Chicago Press, 1999), p. 2. For a disquisition of that time, see also, *Quistione transitoria se un monaco professo suddito del regno Lombardo-Veneto possa succedere ad una eredità apertasi in quel regno 1817 per quanto riflette i bene situati in Piemonte* (Milan: Pogliani, 1819).

⁷⁹ Verona, State Archive of Verona (SAV), 1865, Testamenti, n. 73, n. 2000.

⁸⁰ SAV, 1865, Testamenti, n. 73, n. 3260.

⁸¹ SAM, Notaio Giulio Caimi, 1857, n. 1781.

⁸² Ibid.

⁸³ Ibid.

to the improvement of their prestige. By limiting the amount of money and goods their daughters could obtain, they strongly accepted that the 'correct' way to improve a family's prestige was through the male line.

Chapter 6

Ending wedlock

Marriage, the pivotal institution of society in the Ottocento, was a lifelong bond that was contracted before the Church and deemed to last until the death of one of the spouse. This ‘natural’ ending often raised issues related to wealth and inheritance that deeply involved women. Widowhood was a crucial moment in life as it could imply a sudden and deep change in the amount of wealth women could enjoy, and even throw them into poverty. The first section of this chapter is devoted to the analysis of lawsuits and legal provisions concerning widows. As we shall see, lawmakers and courts attempted to provide some protection to women, and often enabled them to inherit from their deceased husband if they were at risk of falling into poverty.

Marriage could also come to an end through consensual or non-consensual separation, which did not allow the spouses to remarry as divorce did not exist for Catholics. These situations are examined in the second and third sections of the chapter. If litigations related to consensual separation, mainly involved issues related to money, those related to non-consensual separation were thorny cases in which two people confronted each other before a court, and tried to do their best to avoid separation.

1. Wealth, poverty and widowhood

As most marriages in the Ottocento came to an end with the death of one of the spouses, people often wrote wills to guarantee some rights to their surviving spouse. At the death of their husbands, women had no rights to their husbands’ patrimony, and were only entitled to ask for a scant portion of inheritance if they were poor and without a dowry.

As we saw in the previous chapter, the main purpose of a dowry was to bear the burden of marriage. However, dowries had a second, perhaps even more important purpose, in that they often were the only means of support for widows.¹ Becoming a widow, at what

¹ On widowhood, see in M. Palazzi, ‘Solitudini femminili e patrilineaggio. Nubili e vedove fra Sette e Ottocento’, in Barbagli and Kertzer, eds, *Storia della famiglia italiana, 1750-1950*, pp. 129-59; S. Cavallo and

was already a difficult moment of grief and solitude, meant that financial implications had to be considered. The Justinian *Corpus Iuris Civilis* defined the dowry as property of the woman *naturaliter*,² even though it was in the possession of the husband's family. Hence, a woman's in-laws were obliged to return her dowry,³ but this was not always a smooth process: sometimes a woman and her family of origin had to face long negotiations and often the dowry was not returned in full. A case in point is that of Costanza Monti Peticari, the daughter of the poet Vincenzo Monti, whose dowry was returned after long and exhausting negotiations.⁴

When widowed, a woman would normally return to her natal family or, if wealthy enough, she might decide to live alone.⁵ As previously mentioned, in the Italian peninsula, patrimonial relationships between spouses were marked by a strict separation of goods and legal norms complied with the principle *paterna paternis, materna maternis*. A woman who lived alone and owned nothing more than her dowry, along with the interest it produced, might have to face critical changes in her lifestyle. Given the great importance of honour in society, sometimes the easiest way to maintain a family's prestige was to 'ricollocare' –

L. Warner, eds, *Widowhood in Medieval and Early Modern Europe* (Harlow: Longman, 1999); A. Crabb, *The Strozzi of Florence: Widowhood and Family Solidarity in the Renaissance* (Ann Arbor: University of Michigan Press, 2000). For a study on widows and conduct literature, see H. Sanson, 'Widowhood and Conduct in Late Sixteenth-Century Italy: The Unusual Case of *La Vedova del Fusco* (1570)', *The Italianist*, 35/1 (2015), 1-26; Hosker, "Donne sole" in *Post-Unification Italy*, pp. 33-52; H. Sanson, 'Conduct for the Real Widow: Giulio Cesare Cabezi's *Ornamenti della gentildonna vedova* (1574)', in Sanson and Luciola, eds, *Conduct Literature for and about Women in Italy*, pp. 41-62.

² *Codex*, 5, 12, 30.

³ In ancient times, roughly up to the second century BC, the dowry, once paid, merged completely with the assets of the groom if he was *sui iuris*, or with those of his *paterfamilias*, if he was not emancipated. Later, an action, known as *Actio rei uxoriae*, was introduced that was to ensure that the dowry would be returned to the woman, or her natal family, if and when the marriage ended. See Fayer, *La familia romana*, II, p. 698.

⁴ The case of Costanza Monti Peticari is described in C. Agostinelli, "*Per me sola*": *biografia intellettuale e scrittura privata di Costanza Monti Peticari* (Rome: Carocci, 2006); and L. Baffioni Venturi, *Costanza Monti e Giulio Peticari: amore e morte tra Marche e Romagna all'inizio dell'Ottocento* (Ancona: peQuod, 2008).

⁵ See, for example, the case of Teresa Pucci, a woman from the Papal States, who had always lived together with her brother's family. Even though she had a dowry, its interest would not allow her to have the same lifestyle she could have if living alone. Moreover, after the death of her brother, Teresa continued to live with her sister-in-law. See S. Delmedico, 'Alimenti e dote alla periferia dello Stato Pontificio: la famiglia Pucci', *The Italianist*, 37/1 (2017), 50-68 (p. 58).

literally to ‘re-place’ – the widow, which meant finding her another husband. A new marriage would, hopefully, ensure the same economic status to the widow, and, at the same time, create further relations and links, which might prove profitable to the widow’s brothers or any other relatives.⁶

As we saw in Chapter 3, having a dowry was not a prerequisite to a marriage, but, if not dowered, widows did not have any money or other goods to rely on. To solve this issue, some laws provided that, if poor and without a dowry, a widow was entitled to obtain a portion of her deceased spouse’s assets, known as *quarta uxoria*. This provision, which had been in force since the time of Justinian, implied that women were granted a quarter of the property. According to Novel 53 of the *Corpus Iuris Civilis*, women who had married without a dowry were to be supported by the property left by the decedent and share it with their children. This provision was further detailed in Novel 117, where it was explicitly stated that a wife had inheritance rights over the properties of her husband. These rights were, respectively, usufruct if there were children, ownership if there were no children. With regard to the Kingdom of Sardinia, the 1770 *Regie Costituzioni* made a generic reference to the ‘Legge’, meaning that Novels 53 and 117 of the *Corpus Iuris Civilis* were to be taken into account.⁷

⁶ Despite tackling the Middle Ages and the Early Modern period, the following essays can offer an interesting insight into widowhood and remarriage also for the period we are analysing, see Calvi, ‘Reconstructing the Family’; Chabot, ‘Seconde nozze e identità materna’; M. Moran, ‘Motherhood and the Politics of Family Decisions in Early Modern Italy’, *Journal of Family History*, 40/3 (2015), 351-72 (pp. 360-64).

⁷ Art. 17, Lib. V, Tit. 1, *Leggi, e costituzioni di Sua Maestà*, 2 vols (Turin: Stamperia Reale, 1770), I, p. 301. The situation of the surviving spouse did not improve under the Napoleonic code, which provided that, if they were not legally separated, he or she could obtain ownership of the inheritance only in absence of relatives and natural children (Art. 767, *Codice civile di Napoleone il Grande pel regno d’Italia* (Turin: Reale Stamperia, 1806), pp. 225-26). Similarly, according to the law in force in other states, such as in the Grand Duchy of Tuscany, poverty was a requirement if the surviving spouse invoked the *quarta uxoria*. This right relied on the provisions of both Novel 117 and Article 27 of Law 18 August 1814, which — in the case of women — ensured ‘una tal quale porzione legittima sull’eredità maritale’ (on this point, see the discussion in the legal journal *La temi: giornale di legislazione e di giurisprudenza* (1847), 374-75). In the Duchy of Parma, the *Codice civile per gli stati parmensi* provided the usufruct of the fourth part of the inheritance to the impecunious surviving spouse (Art. 659, *Codice civile per gli stati parmensi*, in *Collezione completa*, p. 412). The 1851 *Codice Civile per gli Stati Estensi* had similar rules: it granted alimony to the poor spouse if there were children, ownership if the deceased did not have any offspring (Artt. 836 and 934, *Codice Civile per gli Stati Estensi* (Modena: Eredi Tipografi Reali, 1851), p. 200). The law in the Papal States, finally, did not make

As we shall see in the following cases, the law and tribunals considered women worthy of protection, and allowed them to access this *quarta uxoria*. The first case concerns Carlo Garello, a notary from Susa, Piedmont, who made his will on 16 November 1832. Carlo bequeathed to Ignazio, Teresa and Giuseppa, his three natural children, ‘quel tanto che fosse loro dovuto a termini delle leggi’.⁸ The law provided that natural children were entitled to receive only alimony from their father, or from his heirs. Carlo’s patrimony was left to his sisters’ children. Six days after making his will, Carlo married Cattarina Montabone, mother of his natural children. He had already been condemned to pay his children alimony after a judgement made by the Reale Senato on 10 February 1818. Another judgement – decreed by the Bishop’s Curia – had ordered him to marry or dower Cattarina. A few hours after his marriage, though, he died. Cattarina and his children, who were poor, initiated a lawsuit before the Regio Tribunale di Prefettura of Susa on 11 January 1835. Their poverty was an already verified situation to the extent that they qualified to obtain free legal aid by the lawyer of the poor. Since after their parents’ marriage, Ignazio, Teresa and Giuseppa were no longer to be considered natural children but became legitimate, they demanded the annulment of the will. Carlo’s sisters, on the contrary, claimed that his children were still to be considered natural and not legitimate, because his marriage with Cattarina was not valid. They argued that, in the marriage act:

non costava sufficientemente della delegazione che dal Vescovo si fosse fatta al Parroco, e da questo al Sacerdote, dinanzi a cui si disse contratto il matrimonio. [...] tale delegazione non erasi fatta né in iscritti, né con parole; bensì il sacerdote Re circa le ore quattro del mattino del giorno stesso, in cui il testatore morì, spedì uno degli individui, che dovevano server di testimonio, al Parroco, onde ottenerne l’opportuna delegazione; [...] recatosi quegli alla casa parrocchiale ed esposta la sua commissione alla fantesca del Parroco, la medesima dettogli che ne avrebbe informato il Parroco stesso, dopo pochi istanti ritornò dicendo a quell’individuo, che il Parroco l’incaricava d’annunziargli che per ben fatto avrebbe avuto quanto sarebbe per fare il sacerdote Re.⁹

The marriage was celebrated on 22 November 1822, at six in the morning, and, as becomes evident from this report, Carlo was near to death when he decided to marry Cattarina. Given

any mention of this kind of situation, which meant that Roman law was to be taken into consideration as a subsidiary source.

⁸ *Annali di giurisprudenza*, 2 (1838), 154-73 (p. 155).

⁹ *Ibid.*, p. 157.

that the lawsuit concerned the validity of both a marriage and a will, the tribunal of Susa declared itself incompetent to judge over the case and sent it to the Senato of Turin, by arguing that a superior court could more appropriately pass judgement on such a thorny issue, which implied both ecclesiastical and secular matters. After taking into consideration the assessment of the Office of the General Attorney, which reckoned that Cattarina and Carlo had contracted a valid marriage, the Senato decided that Cattarina and Carlo's son Ignazio were entitled to receive the 'porzione dalla legge riserbata a favore della moglie povera e indotata' and the *legitima portio*, respectively.¹⁰ Thus, Ignazio obtained the property of a third of his father's patrimony; Cattarina enjoyed the usufruct over a quarter of the assets; the two daughters, Teresa and Giuseppa, could obtain dowries. The amount that Carlo's sisters would inherit was, therefore, substantially reduced.

Carlo made his will in favour of his sisters six days before dying, and decided to marry Cattarina at 4 am on the day of his death: arguably, his mind may not have been entirely lucid when he married, making his consent to marriage defective. Moreover, a marriage was valid if celebrated *in facie ecclesiae*, and the 'sacerdote Re' was a representative of the Church, but the authorisation to marry the couple was given by the 'fantesca' who reported the words of the parish priest. Given that Re asked to be authorised, one might argue that this act was usually deemed necessary, and that the full validity of oral authorisation could have been at least questioned. The sentence of the Senato of Turin, nonetheless, favoured Cattarina and her children, providing them with support. Through this judgement, the court showed itself to be close to people and to understand their needs, acting not only within the boundaries of the law but also as an institution well rooted in society.

Another case in point is that of Maria Vandoni, which was brought before the Tribunale di Prefettura of Novara (Piedmont) in 1836 and then appealed to the Senato of Casale in 1839. Maria asked Pietro Valentino, brother and heir of her deceased husband, Giovanni Valentino, for the *quarta uxoria*, maintaining that she was poor and without a dowry.¹¹ Pietro tried to refute this claim by replying that she ran a small shop selling salt and tobacco in the village of Alzate, and also, a food shop not far from there, 'da cui [poteva] trarre una sussistenza adatta alla sua condizione di contadina'.¹² Furthermore, during her

¹⁰ Ibid., p. 172.

¹¹ AST, Casale, Corte di Appello, Second Semester, 1839, n. 4. This case can also be found in *Annali di giurisprudenza*, 4 (1839), 258-68.

¹² Ibid., p. 258.

first marriage to Lorenzo Ballaro, she had received a dowry of 1,000 *lire*: Pietro assumed it had been reconstituted for her second marriage to Luigi Valbassora, as well as for her third marriage, the one to Pietro's brother, Giovanni, in 1834.

The three marriages contracted by Maria testified to the reliability of the model suggested by Lucetta Scaraffia, and already mentioned in Chapter 1. Life in rural areas very often required the presence of the couple, to carry out everyday tasks and household roles. Moreover, the economic support spouses could provide one another was crucial among low income people. This could explain why Maria married three times even though she was not young anymore and had a poor dowry only at the time of her first marriage: what made her attractive on the marriage market were her personal attributes, such as the household tasks she was able to carry out.

Pietro also added that Maria and Giovanni had lived together for some time without being married: extramarital relations, as we have seen, were both a sin and a crime which could impact on the woman's morality, and – in this case – they were mentioned in order to affect her request for a portion of the inheritance. Countering Pietro's first argument, Maria replied that the proceeds of her sales counter of salt and tobacco belonged to her son from her first marriage, and that the dowry brought to the first husband was no more than house furniture she then owned, as shown in the dowry instrument. Lorenzo Vandoni, Maria's brother, testified that he had in fact constituted for his sister a dowry worth 1,000 *lire* of Milan in house furniture, as requested by their father in his will of 11 January 1803. Maria's father, although not able to give his daughter any money as a dowry, wrote a testament to dispose of his poor goods, which demonstrated the extensive use of making wills even among lower classes. The house furniture was worn-out and some of it had been used for the dowry of Maria's own daughter, who married in 1825. Maria, who had married Giovanni three months before his death, maintained that she was able to demonstrate that his assets were worth 9,000 *lire*. On 2 September 1839, the Senato of Casale explained in its judgement that, to the demand of the *quarta uxoria*,

non può opporsi in modo generico, che la donna, che vi aspira sia dotata, ma vuolsi di più, che questa dote sia effettiva, reale e sufficiente a torla da quell'inopia, cui l'Imperatore Giustiniano pensò e provvide, accordando al coniuge superstite questo beneficio.¹³

¹³ *Annali di giurisprudenza*, 4 (1839), 258-68 (p. 261).

This benefit was granted to the ‘coniuge superstite’, no matter if a man or a woman. The *quarta* was not to be considered only *uxoria*: a poor husband too could obtain this portion from the inheritance of his wealthy, deceased wife.¹⁴ The *ratio* of providing the *quarta uxoria* was to avoid that ‘quella [persona] che aveva condotta consuetudine matrimoniale una vita comoda ed agiata, vedevasi costretta a mendicare quasi ne’ tristi giorni della vedovanza’.¹⁵

The court eventually assumed that Maria did not have a dowry at the time of her marriage to Giovanni, and the proceeds of her food shop were deemed insufficient to provide her with the necessary support. The judge maintained that jurisprudence had moved on from the gloss of the medieval jurist Bartolus of Saxoferrato, who claimed that ‘dos data in primo matrimonio intelligitur in secundo repetita’ (a dowry given for the first marriage of a woman is assumed to be repeated also for the second one),¹⁶ and, in present days, the consent of the person who gave the first dowry was considered necessary for a new constitution of dowry, in the event of a second marriage, and this had not been the case for Maria. Moreover, before the publication of the *Regie Costituzioni*, the constitution of a dowry was possible even without registering the act with a notary, but, at the time of Maria’s marriage, registration was mandatory and an implicit constitution of dowry was no longer possible. Consequently, the court ruled that Maria did not have any dowry and was able to inherit from her deceased husband.

In 1837, the requirement of poverty was removed from the Civil Code of the Kingdom of Sardinia. The new law granted the surviving spouse the right of usufruct over the *quarta*, and if the deceased did not have any legitimate children, the quarter of the inheritance was given in property to the spouse.¹⁷

This provision was similar to that of the 1816 *Codice civile universale austriaco pel Regno Lombardo-Veneto*, by which the surviving spouse was granted the usufruct of a portion of the estate equal to that of the children if they were three or more, a third if there were less than three children. While property was always left to children, the usufruct of a portion could be enjoyed by the spouse, who did not need to be poor to obtain these

¹⁴ See *Annali di giurisprudenza*, 4 (1839), 455-61.

¹⁵ *Annali di giurisprudenza*, 4 (1839), pp. 262-63.

¹⁶ Bartolus of Saxoferrato, *Ad legem 40*, cited in *Annali di giurisprudenza*, 4 (1839), 258-68 (pp. 264-65).

¹⁷ Artt. 959 and 960, *Codice civile per gli Stati di S. M. il Re di Sardegna* in *Collezione completa*, p. 652.

inheritance rights.¹⁸

The introduction of this provision in nineteenth-century legal codes marked a crucial transition from the idea of marriage as a mere contract between two families, with women being considered no more than childbearing vessels, to that of a relation between two people, which could also imply love and mutual support. Lawmakers seemed to acknowledge that women actively contributed to the household, and allowing widows to inherit was a sort of compensation for the wealth they helped to build up at the time of their marriage.

2. Annulment and consensual separation

According to the Catholic Church, a valid, sacramental and consummated marriage was a ‘foedus a Dio institutum’ (a pact instituted by God), which came to an end with the death of one of the spouses. However, if there were consistent reasons, the spouses could ask for the annulment, a dispensation given by the Pope only if the marriage was ‘ratum sed non consummatum’ (concluded but not consummated).¹⁹ The declaration of annulment followed several examinations. First, the spouses should relate ‘tutta la storia dei fatti occorsi nella consumazione del matrimonio, e specialmente quante volte, e da quanto tempo l’ha tentata con buon fede, e rimosso qualunque dolo’.²⁰ The process could involve gathering proofs to ascertain that consummation had not taken place. The spouses might be ordered to live together for three years, undergo physical inspection, or be asked for the deposition of the ‘settima mano’, that is, seven members of kin would have to confirm that they were morally convinced about the marriage having not been consummated. The annulment was a grace given by the Pope and nullified the marriage *ex nunc* (from now on).²¹ A *ratum sed non*

¹⁸ Art. 757, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 189.

¹⁹ ‘Dei Miseratione, 3 November 1741’, in *Sanctissimi domini nostri Benedicti Papae XIV, Bullarium*, 4 vols (Venice: Occhi, 1768), I, pp. 695-701. On marriage in canon law, see A. Esmein, *Le Mariage en droit canonique*, 2 vols (Paris: Larose et Forcel, 1891); Gaudemet, *Le Mariage en Occident*; A.C. Jemolo, *Il matrimonio nel diritto canonico: dal Concilio di Trento al Codice del 1917* (Bologna: Il Mulino, 1993).

²⁰ M.T. Salzano, *Lezioni di diritto canonico pubblico, e privato considerato in sé stesso e secondo l’attuale polizia del Regno delle Due Sicilie*, 4 vols (Naples: Giordano, 1843), IV, p. 90.

²¹ On annulment, see also E. Gentile, *Teorico-pratica secondo l’ecclesiastica, e la civil polizia*, 2 vols (Naples:

consummatum marriage was valid until the declaration of nullity was made. By contrast, a marriage could also be declared void *ex tunc* (from the outset): this was the case if a marriage presented formal defects such as a failure to comply with the rules of form or procedure or it originated from a simulation. A nullified *ex tunc* marriage was considered as if it had never been contracted.

Despite being ‘principium, et fundamentum immortalitatis humani generis’ (the principle and foundation of humankind’s immortality), marriage could also come to an end through separation.²² Separation did not allow remarriage, because, as previously mentioned, among Catholics the marriage bond could end only with the death of one of the spouses.²³ This was also the case if only one of the spouses was Catholic at the time of the marriage. In the Kingdom of Lombardy-Venetia, remarriage was permitted to non-Catholic subjects only if they had not concurred in causing the end of their marriage.²⁴

The process to end a marriage through separation involved the Church in the first instance. The authorisation of the parish priest, the bishop, or even the pope, was necessary for a separation to produce civil effects. Whereas the *Codice civile per gli Stati di S. M. il Re di Sardegna* only mentioned that a separation was illicit without the authorisation of the

Manfredi, 1794), II, pp. 236-58; G. Grimaldi, *Dissertazione di Ginesio Grimaldi sul punto dello scioglimento de’ matrimoni per cagion d’impotenza* (Naples: Simoniana, 1765); Mercanti, *Compendio di diritto canonico*, II, pp. 525-26; Salzano, *Lezioni di diritto canonico pubblico, e privato*, IV, pp. 90-96.

²² C. Cosci and J.C. Clusini, *De separatione tori conjugalitatis tam nullo existente seu soluto, quam salvo vinculo matrimonii, eiusque effectibus*, 3 vols (Rome: Salvioni, 1773-1779), I, p. 1. For an example of separation among lower class people, see D. Lombardi, ‘L’odio capitale, ovvero l’incompatibilità di carattere: Maria Falcini e Andrea Lotti (Firenze 1773-1777)’, in Seidel Menchi and Quagliani, eds, *Coniugi nemici*, pp. 335-67. An example of separation between nobles could be found in I. Fosi, ‘Da un tribunale all’altro: il divorzio fra Benedetta Pinelli e Girolamo Grimaldi, principe di Gerace (1609-1653)’, in *Ibid.*, pp. 417-52. See also, Palazzi, *Donne sole*; L. Guzzetti, ‘Separations and Separated Couples in Fourteenth-Century Venice’, in Dean and Lowe, eds, *Marriage in Italy*, pp. 249-74. For a study of separated women in conduct literature, see Hosker, ‘“Donne sole” in Post-Unification Italy’, pp. 63-84.

²³ Artt. 144 and 150, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 600; Art. 111, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 153. On this point, see also M.R. Di Simone, ‘La condizione giuridica della donna nell’ABGB’, *Historia et ius*, 9 (2016), paper 3, pp. 17-18. On marriage as a lifelong bond according to canon law, see Gaudemet, *Le Mariage en Occident*, pp. 284-89.

²⁴ Artt. 116-119, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 153.

ecclesiastic curia,²⁵ the *Codice civile universale austriaco pel Regno Lombardo-Veneto* described in detail how this approval was to be requested. The couple were required to report to the parish priest and explain the motives that induced them to make this decision. The parish priest, in turn, had the duty to:

richiamare alla mente dei conjugi le promesse reciproche solennemente fatte al momento dell'unione in matrimonio, e l'inculcare loro energicamente le conseguenze dannose della separazione. Queste ammonizioni debbono ripetersi per tre diverse volte.²⁶

As explained in a civil law handbook of the time, the *Manuale sul Codice civile generale austriaco* (1844), the three warnings needed to be repeated 'in uno spazio di tempo competente a lasciare luogo alla riflessione'.²⁷ If these attempts proved ineffective, the parish priest could produce a document in which he explained that, although extensively warned, the couple persisted in their will to separate. This document allowed the couple to report to the civil judge and ask to settle the patrimonial agreements regarding the marriage.²⁸ Despite being strictly interconnected, the ecclesiastic and secular judges defended their prerogatives. In 1854, for example, the court of Casale pointed out that, if the Curia had not authorised a separation, the civil judge could not do anything against this decision (as we shall see, exceptions could be made only in case of torture).²⁹ Similarly, in a case brought to sentence in 1856, in Turin, the tribunal stated that if an ecclesiastic court decided on alimony or other civil effects of separation, it would commit an abuse of power.³⁰ Separation had to be assessed by a court, and could not be decided by the spouses: indeed, they could not autonomously determine to live in different houses, because this behaviour would be illegal and would not allow any demand for alimony.³¹ Furthermore, a 1859 decision defined the pact made by two married people to leave separately as 'immorale e nullo'.³² The use of the term immoral provides, once again, an insight into nineteenth-

²⁵ Art. 140, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 600.

²⁶ Art. 104, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 152.

²⁷ A. Amati, *Manuale sul Codice civile generale austriaco* (Milan: Visaj, 1844), p. 49.

²⁸ Art. 105, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 152.

²⁹ *Giurisprudenza degli Stati Sardi*, 4 (1854), 596-98.

³⁰ *Giurisprudenza degli Stati Sardi*, 6 (1856), 232-35.

³¹ *Giurisprudenza degli Stati Sardi*, 1 (1848-1849), 346.

³² *Giurisprudenza degli Stati Sardi*, 1 (1859), 892.

century mentalities: a woman and a man, married but living in two different households without any consistent reason, were not complying with the shared, moral values of society.

Although separation did not dissolve the bond, the spouses were allowed to live in separate houses, and all other marital agreements continued to be in force, unless explicitly stated. This meant that, as a dowry was *ad sustinenda onera matrimonii* – to bear the burden of marriage – the person who kept the dowry was obliged to provide alimony to the other spouse, even though they were separated. A case appealed before the tribunal of Turin in 1852 demonstrates this point. Giovanni Maria Gambone and Anna Paoletti requested and obtained separation from the Archbishop's Curia, but Giovanni Maria did not want to leave the house in which they used to live. The couple had a daughter, aged nine, but Anna – a widow, who had remarried – also had two other daughters from her previous marriage, to whom Giovanni Maria was co-guardian. His refusal to leave the marital house was motivated by the fact that he was not able to appropriately perform his function of co-guardian if he had to live somewhere else. The house where they lived was owned by his wife, as a paraphernal asset, and by the daughters from her first marriage. The court ruled that one of the effects of a separation was that the couple would have to live in two different places. Given that Anna was co-owner of the house, Giovanni Maria was obliged to move out, even though he was co-guardian of Anna's daughters.

Living in two different households, however, did not allow the spouses to disentangle themselves from other regulations of the marital bond: a husband would continue to have rights over his wife's dowry. Even after separation, a woman had to support her husband with the interests her dowry produced. Indeed,

la legge accorda al marito la facoltà di amministrare la dote della moglie e di perceverne li frutti, e li interessi lo obbliga in pari tempo a somministrare alla moglie in proporzione delle sue sostanze e del suo stato, tutto ciò che è necessario ai bisogni della vita come pure sottostare alle spese di mantenimento ed educazione della prole.³³

In this case, the dowry (constituted on 10 November 1841) was kept by Anna because it was part of the patrimony she shared with her daughters, and could not be split. Theoretically, her husband was entitled to receive the interest and return to his wife the amount necessary to support her and the daughter from their marriage. The tribunal, instead,

³³ *Giurisprudenza degli Stati Sardi*, 3 (1853), 275-78 (p. 277).

ordered that Anna Paoletti was entitled to keep the interest, and then return the rest to her husband. This was meant to ‘evitare l’occasione di emulativi e contestazione tra le parti, o d’un pregiudizievole ritardo ogni qualvolta venisse il caso di pagamento della pensione alimentari dovuta dal Gambone alla moglie ed alla comune figlia’.³⁴ It is worth noting that Anna had a 17,000-*lira* dowry, which produced 850 *lire* of interest, and the court ordered that she was entitled to keep only 550 *lire* to support herself and the daughter she had with Giovanni Maria.³⁵ This was a powerful reminder of who exactly bore the burden of marriage: the dowry was not just meant to support the wife’s expenses, but those of the entire family. Anna owned and held her dowry, yet she was not allowed to manage it and use its returns as she wished. An even more striking point was that a separated wife could not freely administer her non-dotal assets, as she still needed her husband’s authorisation to sell or mortgage her estates, even after separation.³⁶

3. Non-consensual separation: adultery and *saevitiae*

3.1. Adultery

Court trials regarding consensual separation were mainly initiated because of a disagreement on financial matters, as we saw in the case of Giovanni Maria Gambone and Anna Paoletti. Non-consensual separation, instead, implied a strong discord. Causes to demand a non-consensual separation were various, but adultery was one of the most sensitive issues: it was deemed to cause *disordine* within society threatening honour, and also resulting in the birth of illegitimate children, who would challenge the pristineness of the family line.

Adultery was considered a crime, and had been treated as such for many centuries. It was ‘la prova oggettiva della differenza sessuale che fonda l’ordine maschile’,³⁷ and judged with varying harshness if committed by a man or a woman. It thus confirmed the double-standard by which society approached men’s and women’s behaviour. Roman law

³⁴ Ibid.

³⁵ Ibid., p. 278.

³⁶ Art. 143, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 600.

³⁷ Daumas, *Adulteri e cornuti*, p. 70.

defined adultery as a situation in which a married woman had sexual intercourse with a man who was not her spouse. In ancient times – under Augustus’ laws for example – the husband or the father of the adulterous woman had the *jus occidendi*, the right to slay, and the husband was entitled to retain a portion of his wife’s dowry.³⁸ Canon law, too, took the issue into account, and explained that only the *copula perfecta* was to be considered adultery.³⁹ The law of the Church prescribed that the adulterous woman would lose her dowry.⁴⁰ If the husband was the adulterous one, he would lose the right to hold and retain the interests produced by his wife’s dowry.⁴¹ Women’s *imbecillitas* – Maurice Daumas points out – was not considered when handling adultery: ‘al contrario, in quanto alleata naturale del Nemico, è molto spesso designata come la fonte stessa del male’.⁴²

Medieval municipal statutes also punished those who committed adultery, especially from the early fourteenth century onwards when they began, first, to impose financial penalties and, later on, corporal ones.⁴³ Some statutes of the Italian peninsula prescribed mild penalties, such as a fine or the cutting of the adulterers’ hair, while others had very harsh rules. According to the 1305 Statute of Tivoli, for example, the betrayed wife, or a person charged by her, could whip her husband’s *amasia* (mistress) for as long as she wanted, providing that she avoided homicide or ‘perdita di membro’.⁴⁴ The Statute of

³⁸ For an overview of adultery and *jus occidendi* in Roman law, see D. Cohen, ‘The Augustan Law on Adultery: The Social and Cultural Context’, in Kertzer and Saller, eds, *The Family in Italy*, pp. 109-26; E. Cantarella, ‘Homicides of Honor: The Development of Italian Adultery Law over Two Millennia’, in *Ibid.*, pp. 229-44 (pp. 229-35); Fayer, *La familia romana*, III, pp. 189-374; A. Massironi, ‘The Father’s Right to Kill his Adulterous Daughter in the Late Ius Commune’, in M.G. Di Renzo Villata, ed., *Family Law and Society in Europe from the Middle Ages to the Contemporary Era* (Cham: Springer International Publishing, 2016), pp. 187-215. See also F. Roberti, ‘Adulterio (diritto canonico)’, *Novissimo Digesto Italiano*, 20 vols (Turin: Utet, 1957), I, pp. 333-35; G. Branca, ‘Adulterio (diritto antico)’, *Enciclopedia del diritto*, 16 vols (Milan: Giuffrè, 1958-1965), I, pp. 620-21.

³⁹ The *copula perfecta* was sexual intercourse, which led to procreation. On this idea, see P. D’Avack, ‘La *copula perfecta* e la *consummatio coniugi* nelle fonti e nella dottrina canonistica classica’, *Rivista italiana per le scienze giuridiche*, 86/3 (1949), 163-250.

⁴⁰ Mercanti, *Compendio di diritto canonico*, II, pp. 536-37.

⁴¹ *Ibid.*

⁴² Daumas, *Adulteri e cornuti*, p. 103.

⁴³ T. Dean, ‘Fathers and Daughters: Marriage Laws and Marriage Disputes in Bologna and Italy, 1200-1500’, in Dean and Lowe, eds, *Crime, Society and the Law*, pp. 85-106 (pp. 86-87).

⁴⁴ A. Marongiu, ‘Adulterio (diritto intermedio)’, *Enciclopedia del diritto*, p. 622.

Omegna (1384) went so far as to condemn to death those who committed adultery.⁴⁵

However, adultery was not considered a point of no return, because ‘love as a disorienting or mad passion was of limited duration; thus, in cases of love it could be hoped that lovers would eventually return to their senses and their correct familial places’.⁴⁶ Bartolus of Saxoferrato suggested sending the adulterous wife to a nunnery. In this way, the husband could reconcile with his adulterous wife, because the time spent there was believed to remove any stain.⁴⁷

As explained by Guido Ruggiero, adultery was ‘perceived as loss of property for a husband and his household, [and] courts were largely concerned with marriage in term of property as were most of the husbands who sought justice against adulterers’.⁴⁸ This might further explain why men could be convicted of adultery only if they kept their *amasia* in the marital house.⁴⁹

In the period from the Middle Ages to modern times, the judicial approach to adultery changed in terms of punishment: explicit provisions of physical punishment were removed from eighteenth-century laws, even though, as we shall see, the sentence for the killing of an adulterous spouse was often mitigated. Over the course of time, the double-standard applied to men and women remained unchallenged and continued to be enshrined in the law.

⁴⁵ Ibid.

⁴⁶ Ruggiero, *The Boundaries of Eros*, p. 66.

⁴⁷ ‘Monasterium omnem maculam detergit [...] vir potest sibi reconciliare uxorem de adulterio damnatam, et in monasterium missam’ (the monastery cleans every stain [and therefore] a man can reconcile with his wife, who was convicted of adultery and put into a monastery), see, Bartolus of Saxoferrato, *Commentaria in Corpus iuris civilis. Super Authenticis, & Institutionibus* (Venice: Giunta, 1585), Collatio IX, 54.

⁴⁸ Ruggiero, *The Boundaries of Eros*, p. 45.

⁴⁹ Marongiu, ‘Adulterio (diritto intermedio)’, *Enciclopedia del diritto*, p. 623. On adultery, see also Ruggiero, *The Boundaries of Eros*, pp. 45-69. For some disputes regarding adultery and demand for separation during the Early Modern period, see Guzzetti, ‘Separations and Separated Couples’, pp. 249-74; S. Chojnacki, ‘Il divorzio di Cateruzza: rappresentazione femminile ed esito processuale (Venezia 1465)’, in Seidel Menchi and Quagliani, eds, *Coniugi nemici*, pp. 371-416; M. Bellabarba, ‘I processi per adulterio nell’Archivio Diocesano Tridentino (XVII-XVIII secolo)’, in Seidel Menchi and Quagliani, eds, *Trasgressioni*, pp. 185-227, in particular pp. 193-94; L. Turchi, ‘Adulterio, onere della prova e testimonianza. In margine a un processo correggese di età tridentina’, in Ibid., pp. 305-50. For a comparison, see the study on adultery in England, D.M. Turner, *Fashioning Adultery: Gender, Sex, and Civility in England, 1660-1740* (Cambridge: Cambridge University Press, 2002).

Following the Napoleonic conquests and the promulgation of the criminal code in 1810,⁵⁰ the law ruled that only the husband was entitled to denounce his wife's adultery, which could be punished with imprisonment from three months up to two years. The husband could stop this punishment 'consentendo a riprendere la moglie'.⁵¹ These criminal code provisions were already included in Napoleon's civil code.⁵² Napoleonic criminal law provided that the punishment of an adulterous husband could take place only if he had brought his mistress to live in the spouses' house, and that this punishment be limited to a fine.⁵³ Adultery was an appropriate reason to demand divorce,⁵⁴ as it implied a breach of the right of mutual fidelity with which the spouses should comply, and an even more crucial challenge to honour. However, also the right to ask for divorce was granted to men and women with varying degrees, confirming, again, women's inferior status.

The work of the Dominican friar Faustino Scarpazza is representative of the thoughts regarding adultery shared by many people in the Italian peninsula and, as we have seen, confirmed by the law:

L'adulterio non ha sempre la medesima gravità, [...] è più grave l'adulterio di una conjugata con un libero uomo, di quello di un conjugato, con una donna libera, poiché nel primo caso si ha l'incertezza sulla legittimità della prole. [...] Questa maggior gravità ci viene anche indicata dal Signore quando nei tempi antichi permise bensì la pluralità delle mogli, ma non mai la pluralità dei mariti. [Inoltre] la moglie non contrae infamia

⁵⁰ The *Codice dei Delitti e delle Pene pel Regno d'Italia* (Milan: Reale Stamperia, 1810) was approved with decree 254 on 12 November 1810, and entered into force on 1 January 1811. On this code, see A. Laingui, 'Il diritto penale della rivoluzione francese e dell'Impero', in S. Vinciguerra, ed., *Diritto penale dell'Ottocento: i codici preunitari e il codice Zanardelli* (Padua: CEDAM, 1993), pp. 49-52; A. Cavanna, 'Il codice penale napoleonico. Qualche considerazione generalissima', in S. Vinciguerra, ed., *Codice dei delitti e delle pene pel Regno d'Italia (1811)* (Padua: Cedam, 2002), pp. XI-XXII (pp. XIV-XVI); M.A. Cattaneo, 'L'autoritarismo penale napoleonico', in *Ibid.*, pp. 23-32.

⁵¹ Artt. 336-337, in *Codice dei Delitti e delle Pene pel Regno d'Italia* (Milan: Reale Stamperia, 1810), p. 112.

⁵² Artt. 308 and 309, *Codice Civile del Regno d'Italia*, in *Collezione Completa dei Moderni Codici Civili* (Turin: Minerva Subalpina, 1845), p. 18.

⁵³ Art. 339, in *Codice dei Delitti e delle Pene pel Regno d'Italia* (Milan: Reale Stamperia, 1810), p. 112.

⁵⁴ Artt. 229 and 230, *Codice Civile del Regno d'Italia*, in *Collezione Completa dei Moderni Codici Civili*, p. 13. If there was no adultery implied, the code allowed that both spouses could ask for divorce 'per eccessi, sevizie, o ingiurie gravi', see Art. 231, *Ibid.*, p. 13. It is worth highlighting that according to Napoleon's code a couple could ask for divorce and then remarry, while other legal systems in force after the Restoration only allowed separation. Divorce was introduced in the Italian legal system with Law 898 in 1970.

dall'adulterio del marito, niuno se ne scandalezza, e può ritenerla per complice del di lui peccato, purché dimostri il suo dispiacere pei vizj del marito, e si adoperi perché si emendi.⁵⁵

Common views on marriage and the double standard relating to sexual behaviour were such that a wife's adultery was deemed to strongly impact on her husband's and their families' honour, especially for the breach it could cause to the family line. Adultery committed by a man, instead, was not to be considered such a meaningful issue, as long as the betrayed wife showed sorrow for her husband's vices, and tried her best to assure society that she was not an accomplice. It is also worth noting that, according to Scarpazza, it was the wife who was asked to 'adoperarsi' in order to make the husband stop betraying her. Moreover, if a man had children born outside the family, it would be a negligible issue for his standing and prestige, whereas, for a woman, having illegitimate children was a matter of the utmost dishonour.

The 1839 criminal code of the Kingdom of Sardinia described adultery as a crime against 'l'ordine delle famiglie', and confirmed the provisions of the Napoleonic code.⁵⁶ This code reduced the punishment of those who, in the grip of the 'justus dolor' (the just rage), the uncontrollable feeling, killed the adulterous spouse. This *justus dolor* was believed to explode if, for example, a husband caught his wife during the act of committing adultery.⁵⁷ This reduction was also granted to a woman's parents if they caught their daughter committing adultery in their house, and then killed her.⁵⁸ No provision tackled the case of a woman killing her adulterous husband, because, as we saw, 'la moglie non contrae l'infamia dall'adulterio del marito'.

The 1852 Austrian code that was in force in Lombardy-Venetia, instead, ruled that the adulterers were to be given a fine and imprisoned from one to six months, and added that 'la donna deve punirsi con maggior rigore qualora, a motivo del commesso adulterio, possa insorger dubbio sulla legittimità del successivo parto'.⁵⁹ The Austrian code did not

⁵⁵ F. Scarpazza, *Decisioni dei casi di coscienza e di dottrina canonica*, 13 vols (Naples: Nuovo Gabinetto Letterario, 1828), I, pp. 24, 28.

⁵⁶ Artt. 523-529, *Codice Penale per gli Stati di S. M. il Re di Sardegna* (Turin: Minerva Subalpina, 1840), pp. 90-91.

⁵⁷ On this point, see M. Cavina, *Nozze di sangue: storia della violenza coniugale* (Rome: Laterza, 2011), pp. 68-81.

⁵⁸ Art. 604, *Codice Penale per gli Stati di S. M. il Re di Sardegna*, p. 102.

⁵⁹ Art. 502, L. Oldrati, *Codice penale austriaco attualmente in vigore nel regno Lombardo-Veneto con*

mention scandal and honour as reasons for the punishment of adultery: the adulterers were indicted, because the spouses had the right to mutual fidelity, and it was the breach of this right that was to be condemned.⁶⁰ With the Unification of Italy and the enactment of the new civil code (1865), legal provisions on adultery became similar to those enforced in the Napoleonic and Kingdom of Sardinia codes, admitting a demand of separation by the wife only if the husband had kept his mistress in the marital house, or – and the Napoleonic code did not have this provision – ‘notoriamente in altro luogo, oppure concorrano circostanze tali che il fatto costituisca una ingiuria grave alla moglie’.⁶¹

3.2 *Saevitiae*

Adultery was not the only motivation behind the demand for a non-consensual separation. In Lombardy-Venetia, abuse, torture, or even only a ‘condotta sregolata in guisa che [...] i buoni costumi della famiglia siano posti in pericolo’ could represent substantial reasons to initiate a claim.⁶² It should be noted that not every kind of torture was considered as such, and a wife had to bear a certain degree of abuse. As Marco Cavina observed, ‘la violenza maritale fu un elemento fisiologico e accettato del matrimonio, legalmente fino a tutto l’Antico Regime, socialmente ben oltre’.⁶³ The collection of volumes written during the second half of the eighteenth century by Cristoforo Cosci, an apostolic prothonotary, clearly explained this point. Cosci wrote that ‘saevitia viri in uxorem est res pessima, [sed] percussio moderata uxoris ad correctionem non est causa separationis tori’ (the torture of a woman by her husband is a very bad thing, but a moderate percussion of the wife with the aim to correct her is not a cause of separation of the bed).⁶⁴ In the view of the time, women

osservazioni teorico-pratiche e confronto coll’antecedente abrogato (Milan: Manini, 1852), p. 428.

⁶⁰ Oldrati, *Codice penale austriaco*, p. 428.

⁶¹ Art. 150, in *Codice civile del Regno d’Italia: corredato della relazione del Ministro Guardasigilli fatta a S. M. in udienza del 25 giugno 1865* (Turin: Botta, 1865), p. 30. See also Artt. 148-149, *Ibid.*

⁶² Art. 109, *Codice civile universale austriaco pel Regno Lombardo-Veneto in Collezione completa*, p. 152.

⁶³ Cavina, *Nozze di sangue*, p. XII.

⁶⁴ C. Cosci and J.C. Clusini, *De separatione tori conjugalis tam nullo existente seu soluto, quam salvo vinculo matrimonii, eiusque effectibus*, 3 vols (Rome: Salvioni, 1773-1779), I, pp. 304-17. On domestic violence, see also G. Minnucci, “‘An mulier verberari possit’: una “quaestio disputata” di argomento matrimoniale’, in Seidel Menchi and Quaglioni, eds, *Coniugi nemici*, pp. 491-98; T. Dean, ‘Domestic Violence in Late-Medieval

– considered weak-headed and childish – needed to be guided and corrected, no matter how. Instead, ‘atroces saevitiae’ (atrocious tortures) could lead to separation, and in order to determine the harshness of a *saevitia* ‘semper attendenda est qualitas personae’ (the status of the person involved should be considered).⁶⁵ This meant that *saevitiae*, such as denial of food and medicine, ‘in foeminis honestissimis et nobilibus illae saevitiae graviores sunt, [...] in humilioribus sunt leviores’ (to honest and noble women these tortures are more severe, to humble women are less).⁶⁶ In a world which revolved around the ideas of status and prestige this statement is not surprising. The social, juridical and economic framework of the eighteenth- and nineteenth-century Italian peninsula, with its legacies of ‘soggezione di persona a persona’ (see Chapter 3), easily accepted the view that linked the body to wealth, suggesting that the life of a noble and wealthy person had more importance than that of a poor one.

The claim for separation due to the *saevitia* suffered by one of the spouses was to be initiated in a similar way as that concerning other cases of separation. First, it was to be reported to the Curia, which had to release a document allowing the couple to report to the secular judge to assess their patrimonial matters. In the Kingdom of Sardinia, the civil judge could also order a separation, if the safety of the spouse who began the claim was at risk.⁶⁷ In Lombardy-Venetia, the civil judge could decide on the separation and on patrimonial matters if one of the spouses did not agree to appear before the Curia.⁶⁸ Non-consensual separation was not easy to obtain unless there were substantial reasons to initiate this demand.

In the two cases reported in legal journals (one in the *Giurisprudenza teorico-pratica secondo la legislazione austriaca* and the other in *Annali di Giurisprudenza*), the lawsuit was often initiated because of the passing on of venereal disease, which was equated to a *saevitia*. For example, in a case that was brought before several tribunals of Lombardy-Venetia in 1835, a woman initiated a lawsuit against her husband, who, a few days after

Bologna’, *Renaissance Studies*, 18/4 (December 2004), 527-43; Cavina, *Nozze di sangue*.

⁶⁵ Cosci and Clusini, *De separatione tori conjugalit*, pp. 317-27.

⁶⁶ *Ibid.*

⁶⁷ Art. 140, *Codice civile per gli Stati di S. M. il Re di Sardegna*, in *Collezione completa*, p. 600.

⁶⁸ Artt. 107 and 108, *Codice civile universale austriaco pel Regno Lombardo-Veneto* in *Collezione completa*, p. 152.

their marriage, had passed syphilis on to her.⁶⁹ The reported trials took place before secular judges, which leads us to believe that one of the spouses, the husband in this case, refused to appear before the Curia. At the very beginning, the wife was obliged to stay in bed though unaware of the nature of her sickness. Her uncle then invited her to his house for some days, hoping for ‘un miglioramento nel cambiamento dell’aria’.⁷⁰ However, when she returned home her condition deteriorated to the extent that she was not able to do any housework. Her father was immediately informed, and took her to his home, where ‘le vennero prodigate tutte le possibili cure per rimetterla in salute’.⁷¹ The family even called a doctor from Milan, who confirmed that her sickness was due to the ‘lue venerea dalla quale era gravemente attaccata’, and suggested sending her to the ‘Ospedale Maggiore’.⁷² The journal did not report the couple’s names, or where they lived, but, from the information given, we can assume that they were from the province of Milan, and the Ospedale Maggiore was probably that of Milan. There, the wife was hospitalised against payment for several months, and, when she was able to return to her father’s house, continued to be under medical attention for some time. All these vicissitudes were proven by two letters, in which her husband admitted to being guilty of passing syphilis on to her, and promised to bear the cost of his wife’s medical treatment. She pointed out that the husband, perfectly aware of his sickness, had seriously undermined her health and her life. The records reported her stating that:

con medicozzi curavasi da sé già da qualche giorno [e] conscio della sua infezione, conscio per l’esperienza che il male era comunicabile, superò ogni riguardo, sciolse qualunque freno, usò con la sposa e con l’uso la rese inferma ed infetta di un malore pericoloso.⁷³

⁶⁹ *Giurisprudenza teorico-pratica secondo la legislazione austriaca*, 23 (1836), 173-94. Syphilis, often called ‘lue celtica’, ‘lue venerea’ or ‘morbo gallico’, was a widespread disease, to which physicians gave great attention. Various nineteenth-century works also testified to the attempts to develop a vaccine through syphilisation, which, at that time, was deemed to be successful. See, for example, G. Federigo, *Osservazioni sugli effetti del gallico nel popolo, ed i metodi più facili di curarlo* (Venice: Andreola, 1791); C. Sperino, *Sifilizzazione nell’uomo* ([n.p.]: Favale, 1851); I. Galligo, *Sulla vaccinazione celtica o meglio sulla sifilizzazione nell’uomo* (Florence: Cecchi, 1852).

⁷⁰ *Giurisprudenza teorico-pratica*, 23 (1836), p. 173.

⁷¹ *Ibid.*

⁷² *Ibid.*, p. 173.

⁷³ *Ibid.*, p. 178

The woman pointed out that her husband had come down with the *morbo gallico* by committing an illicit and prohibited action: as he himself had even confirmed, ‘si era unito con una femmina da partito poco prima del matrimonio’.⁷⁴ As we saw earlier, extramarital sexual intercourse was not punished in Lombardy-Venetia. Hence, one might argue that the wife wanted to leverage the court’s sense of morality and put her husband in a bad light to facilitate her demand for a separation. According to Article 109 of the *Codice civile*, the wife asked the court to pronounce a sentence that declared their separation, the return of her dowry and her trousseau, and the repayment of her medical expenses, which amounted to 252.2 *lire austriache*, as well as a daily alimony of 1.5 *lire austriache*.⁷⁵ The husband refuted his wife’s argument by pointing out that syphilis was not among the diseases that allowed separation according to Article 109. In particular, he claimed that the *morbo gallico* was not to be considered strictly contagious: transmittable diseases were only those that were passed on ‘con l’alito e con la semplice vicinanza, come sarebbe la febbre gialla, il morbo nero, le scrofole e simili’.⁷⁶ He also claimed that he did not know he was sick; this explained why he took part ‘nelle allegrezze nuziali non si astenne di valersi né di vitto, né di bibite eccitanti’, and even consummated the marriage.⁷⁷ He added that, had he been aware of his condition, he would have postponed their marriage until after his complete recovery. There was no actual malice in his actions – he maintained – and the two letters presented to court were by no means evidence of his guilt, and only proved ‘l’umiliazione dell’innocente marito, che afflitto dall’avvenuto sinistro ne chiede scusa alla moglie’.⁷⁸ He also asked the court to order his wife to return to the marital house within fourteen days, ‘sotto la comminatoria d’esservi astretta anche con i mezzi compulsivi di giustizia’.⁷⁹

In line with the dominant ideas of the time, the tribunal of first instance assumed that a wife needed to bear a certain degree of *saevitiae*, and ruled that there were insufficient reasons for the couple to separate. The wife could ask at most a reimbursement for the medical expenses she had incurred. Passing on chronic syphilis was definitely a valid reason to ask for separation, but – the court ruled – only if this was done consciously, and if the

⁷⁴ Ibid., p. 177.

⁷⁵ Ibid., p. 174.

⁷⁶ Ibid., p. 175.

⁷⁷ Ibid.

⁷⁸ Ibid., p. 176.

⁷⁹ Ibid.

syphilis was incurable.⁸⁰ As the couple married on 5 June and the husband sought medical help on 24 June, the court argued that it was unlikely that he could have been aware of his disease. This proved that there was no actual malice.⁸¹ The court also rejected the point that the passing on of a disease could be equated to mistreatment. On the contrary:

coll'avere inscientemente comunicato il male alla moglie non può dirsi che abbia il marito tese insidie alla di lei vita e salute né vuolsi parificare un tal fatto ad una propinazione di veleno: la visita fatta eseguire alla moglie dal medico e le istanze per sottoporla ad una cura escludono ogni idea di insidia.⁸²

In the court's opinion, the husband's fairness and innocence could be undoubtedly inferred for having called a doctor and providing his wife with medical treatment. Admittedly the woman's life could have been at risk, but no deadly event occurred, and her suffering was not directly caused by her husband, as in the case, for example, of 'percosse, minacce, mancanza di alimenti e simili'.⁸³ The court of first instance ruled that the spouses should reunite, and that the wife, given that she had recovered, could 'quindi superare il ribrezzo che la ricordanza del male sofferto poteva ispirare'.⁸⁴

The wife appealed the sentence and objected 'contro il disordine di voler constringere una infelice ed innocente giovane a nuovamente giacere su di un talamo che il marito le preparò coperto di veleno'.⁸⁵ She even suggested that her husband's disease could have been caused by a 'commercio con una *bagascia*' after their marriage, which would make him culpable of adultery, according to Article 109. His fault was not excusable even if he had had this 'meretricio suo congiungimento' before their marriage, because he could have waited the time required for the disease to take its course.⁸⁶

The Eccelso Tribunale superiore d'Appello conceded the separation of bed and board, because the wrong that the husband had committed was enormous. The court argued that this woman, 'zitella onesta e nel fiore degli anni', had been offended 'nell'atto stesso di ascendere quel talamo che immacolato attendeva, e trovava contaminato; quell'animo

⁸⁰ Ibid., p. 182.

⁸¹ Ibid., p. 184.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid., p. 186.

⁸⁶ Ibid.

non poteva non essere lacerato da amarissima afflizione'.⁸⁷

The sentence was again appealed. This time the husband argued that this cause was not just affecting their mere interest but it was a matter of public order. By exploiting ideas about marriage being a key institution on which society rested, the defendant obtained the favour of the court: the Supremo Senato of Verona, the tribunal of final instance, confirmed the first judgement and denied separation. However, the husband was required to refund the expenses incurred by his wife due to her disease. Despite appearances, this was an achievement for the wife, given that expenses for her sickness would usually have been paid with money coming from her dowry.

A marriage was a lifelong bond that could not be dismissed because one of the spouses had transmitted a disease, thus denying the significance of personal feelings and psychological issues. Although sexual intercourse outside wedlock was not looked upon favourably, it was socially accepted for men, who were not expected to abide by the same sexual rules as women. As a woman's goal was to marry, society required her to comply with behaviours that were seen as positive and womanly, such as being a good daughter, wife and then mother, sexually honourable and compliant with her role as an angel of the hearth.

Moreover, in this case, the wife asked for separation, but at the same time seemed to share society's vision about men and women. The wife's arguments revolved around the disease and her sickness, and although she mentioned that her husband might have committed a prohibited action, she neglected to refer to his morality. The syphilis had been supposedly developed after a 'commercio con una bagascia', but revealing this detail was only functional to the demand of separation, and not an act to be stigmatised. We may assume that the 'talamo che immacolato attendeva, e trovava contaminato' only referred to the disease, as honesty and virginity were only considered womanly values.

Another interesting example of the law in action is a case, discussed in the Kingdom of Sardinia, which also dealt with a sexually transmitted disease, but, this time, with fatal consequences, even though the case itself is about patrimonial matters.⁸⁸

The relatives of a deceased woman (names were not mentioned) asked the court to confirm that they were entitled to initiate a legal action against her widower, in order to

⁸⁷ Ibid., pp. 190-91.

⁸⁸ *Annali di Giurisprudenza*, 3 (1839), 292-308.

claim his forfeiture of the right to obtain the *lucrum dotis*, the gain that a man was entitled to keep before returning the dowry to his wife's heirs after her death. Alongside the amount of the dowry and the trousseau, wedding agreements signed before notaries also regulated issues such as the place where the couple would settle after the marriage, and often confirmed the amount of the *lucrum dotis*. The value of the *lucrum dotis* was usually provided by the law, especially by municipal statutes, to which people still referred in many areas of the nineteenth-century Italian peninsula. A husband could obtain this gain only if the marriage was still in force at the time of his wife's death. The point around which this lawsuit revolved was whether the couple was separated or not, given that the woman had initiated a cause against her husband, but had died before a verdict was reached.

At the time of their wedding, in 1836, the wife obtained a 40,000-*lira* dowry. More than half of this dowry (25,000 *lire*) was paid in cash, while the remaining portion was used to cancel a mortgage the husband had over his own patrimony. In the dowry instrument, the spouses referred to the Statute of Turin to determine the *lucrum dotis*. Shortly after their marriage, the wife left the marital house and went before the Bishop of Turin to ask for the 'separazione di toro', because she had discovered that she had been infected with syphilis by her husband, presumably after extramarital intercourse on his part. The husband claimed that neither he nor his wife had syphilis, and demanded that his wife return to their house. Both presented documents drawn up by their respective physicians to support their claims, but, shortly thereafter, the woman died. The husband sued his wife's brother and mother, asking them to cancel the mortgage made over his property to guarantee the dowry, and claimed to be entitled to keep for himself 20,000 *lire* as *lucrum dotis*. They questioned his claims by maintaining that he did not deserve any *lucrum dotis* because he had committed adultery, and presented a statement from a doctor showing that his wife's death was caused by a 'subdola infiammazione intestinale a cui la causa sifilitica [aveva] servito di avviamento ed accidentali cause atmosferiche [avevano] indi procacciato incremento ed acutizzazione'.⁸⁹ The husband, instead, argued that the autopsy did not report any traces of syphilis, and that the cause of death was deemed to be an inflammatory bowel disease.

In June 1837, Turin's tribunal ruled that the husband was entitled to keep the *lucrum dotis*, because, if the passing on of syphilis could have been equated to a *saevitia* – and therefore allowing separation – this was to be made 'scientemente, e [...] il risultato di dolo,

⁸⁹ Ibid., p. 296.

e di animo pravo, e che ebbe luogo con premeditazione, o con volontà deliberata di nuocere gravemente’, but this was not the case.⁹⁰ The court added that the presented documents allowed room to doubt whether or not the husband had passed on the disease deliberately.

The case was not over. Basing their claims on ‘la legge, [...] la giurisprudenza, [...] e la sana ragione’, the wife’s brother and mother appealed the judgement, arguing that the couple was in fact separated at the time of her death, because of the husband’s ‘inosservanza di fede coniugale, e [...] mali trattamenti’.⁹¹ The appellants’ lawyer argued that the husband lost the *lucrum dotis*, not because of the separation *per se*, but because of his behaviour. He had caused the separation ‘malamente governandosi’, and, if the death of his wife made the sentence of separation ‘inutile, ed anzi impossibile’, the behaviour of the surviving spouse could not be left unpunished.⁹² As jurisprudence suggested that ‘le sevizie, le insidie tramate alla vita, le ingiuste diffamazioni’ were valid reasons to ask for a separation, this was even more so in the case of the transmission of such a disease.⁹³ Although one could argue that the syphilis was not intentionally passed on, jurisprudence claimed that a husband’s duty was not to harm but to defend and protect his wife: therefore, the gross negligence that had made the woman ill could be equated to actual malice.⁹⁴ The appellants also pointed out that the *lucrum dotis* was a sort of reward, a sign of gratitude for a good marriage, and the spouse, who had put the couple in such a deadly situation, could not aspire to obtain any gain.⁹⁵

The husband’s counterargument focused on the very intimate nature of the demand of separation, suggesting that such a request could not be transmitted to any heir and, therefore, his wife’s relatives had no power to initiate any claim.⁹⁶ He also stated that he and his wife had reconciled, and that she had even given him a gift for his name day, in April 1836. He added that the following 10 June his mother-in-law had given him the remaining 5,000 *lire* that he was entitled to as part of his wife’s dowry.

The arguments brought in by the husband, nonetheless, were not enough to convince the Real Senato, which, on 22 March 1839, delivered a decision in favour of the wife’s

⁹⁰ Ibid.

⁹¹ Ibid., p. 297.

⁹² Ibid., pp. 300-01.

⁹³ Ibid., p. 301.

⁹⁴ Ibid., p. 302.

⁹⁵ Ibid., p. 303.

⁹⁶ Ibid., p. 304.

relatives and claimed that the cause was not only crucial for the appellants' own interest, but particularly for public morals. Although the woman's relatives had to move through several judicial stages, the Real Senato ruled that the appellants were entitled to make a claim to avoid allowing the widower to keep the *lucrum dotis*. The couple did not reconcile as the husband had claimed, and the gift for the name day as well as the missing 5,000 *lire* were given before the cause for separation was presented to the Bishop (22 July 1836). The Real Senato also pointed out that it was not the sentence of separation itself that could have made him unworthy to obtain the *lucrum dotis*, but the actual facts that led to such a sentence.⁹⁷ Even though, it is not clearly reported in the decision, one can argue that adultery and passing on of syphilis were not the only reasons that made the husband unworthy of the *lucrum dotis*: the subsequent death of his wife made public his betrayal of the family's honour, and this was strongly blameworthy.

In a world that revolved around marriage, which was considered indissoluble, the challenge to the legitimate family was a major concern. A marriage should only end with the death of one of the spouses, and causes regarding adultery and separation were few. Despite adultery being largely accepted when committed by men, courts nevertheless took into consideration the challenge it presented to the honour of the wife's family. If a woman was asked to bear *saevitae* and adultery to some extent, once these injuries were made public, things changed. Women, who entered another *famiglia* through marriage, were not entitled to carry large amount of their family of origin's wealth; they were entrusted, instead, with the task of preserving their prestige and honour. As during their lives their morality was deemed to impact on their natal family, similarly, a breach to their personal honour, if made public, was considered an offence to their family as a whole.

⁹⁷ Ibid., pp. 305-08.

Conclusion

‘Non è possibile negare l’intelligenza di molte donne di più di quello
che si possa disconoscere l’imbecillità di molti uomini’
A.M. Mozzoni, *La donna e i suoi rapporti sociali* (Milan: Tipografia Sociale, 1864), p. 220.

The Ottocento was a crucial period for women in the Italian peninsula. Both men and women acknowledged, and often shared, the new ideals of the Enlightenment, but changes were handled with extreme caution. And this was reflected in the law, resulting in a legal framework with judges, jurists and lawmakers who praised institutions such as marital authorisation, but, at the same time, included women among those entitled to access parental inheritance.

Some interesting points can be inferred from the legal documents analysed in this study. First of all, the nineteenth-century family still bears significant traces of the Old Regime’s idea of a choral and collective moral body, which deployed its standing in society as a group. Within a context that relied on obedience, and valued it as a major virtue, what Luciano Guerci called a ‘crisi dell’obbedienza’ emerged. Women questioned men’s authority, sons disputed that of their fathers, challenging not only the family’s peace but also the hierarchical set-up of society. This crisis of obedience came together with, or – one might argue – was the cause of, the decline of the patriarchal family, a process which possibly began with the Enlightenment and found its embodiment in the individualism of the Napoleonic code.

Women initiating lawsuits had a salient role in this process. They showed a certain degree of consciousness about their rights, and, when reporting their cases, also seemed to know how the law functioned in practice and how to seek advice.

Although the rulings examined in this study were not always made in women’s favour, they could be interpreted in several ways. Poised between the *Ancien Régime* and the disrupting novelties of the Napoleonic code, and with an eye to the future, judges and jurists bore in mind the ways people could be affected by the outputs of the law in action, and how their decisions were understood in society. A possible image that emerges from the analysis of these rulings is their aim to avoid discord and disruption, by attempting, often

awkwardly, not to neglect anyone, and by always keeping in mind the importance of the family.

In particular, courts – both ecclesiastical and secular – specifically ruled in *favor matrimonii*. For example, the Bishop's court rejected the claim of Andrea Buttarini because he only wanted to carry out a 'leggiadra vendetta', but, in the case of Giovanni Battista Civieri, things were different: he had solid reasons to ask Luigia to keep her promise, not to mention that a breach of his honour before society was to be prevented. With regard to cases concerning money, decisions were often made so as to provide women with an addition to their dowries or to allow widows to access the *quarta uxoria*. In the cases described in Chapter five, the courts ruled in women's favour, even though the value of their dowries was still far from the patrimony obtained by their brothers. The claims of Cattarina Montabone, in Chapter six, were met and her family was able to access part of her deceased husband's patrimony. Similarly, Maria Vandoni was granted a portion of her third husband's patrimony because she was poor and without dowry. This could imply an inclination to protect the weaker strata of society often represented by women. Cases regarding separation, by contrast, were thorny and their outcomes often unexpected to the extent that a woman, whose husband had passed syphilis on to her, was not allowed to separate, but only granted a refund for the expenses she had incurred: although her sufferings were acknowledged, there was something higher in play, that is, marriage, a 'foedus a Dio institutum'.

These general positions, however, could also be read from a different perspective. One could suggest that society aimed not to be inclusive but to preserve its own stratification and its own static and hierarchical, male-dominated set-up. Thus, the Bishop's efforts in the abovementioned case, rather than trying to satisfy the plaintiffs and safeguard the promise, may have been a means to convey and show his persuasive force. Indeed, the force of ecclesiastical courts in cases concerning marriage promises was mainly moral, and getting married or not primarily relied on a person's will rather than on the sentence.

Secular tribunals may have operated according to similar principles, thus redistributing wealth among children and widows not necessarily as an attempt to be fair, but aiming, instead, to avoid the concentration of goods and money in few hands. One might also argue that courts denied separation, because, within marriage, a woman was in the place where nature had destined her to be, not to mention the fact that separated women were a challenge to society and to the institution of marriage.

But the Ottocento was a period of transition: no matter how we read the outputs of lawsuits, changes were taking place and people had to establish a relationship with transformations. If after the Restoration the feudal ‘soggezione di persona a persona’ was formally abolished, nineteenth-century society refrained from removing this *soggezione* from everyday interpersonal relations, confirming the subordinate status of women. With the Unification of Italy, institutions such as marital authorisation were enshrined in the law also in the territories of the former Lombardy-Venetia: from being able to freely manage their assets, if married, women became dependent on men.

After the drafting of the Pisanelli code, some voices against women’s inferior status began to rise from members of the Parliament, who noticed that the new legal system was taking Italy back to the past.¹ After its enactment, both men and women intervened in public debates, highlighting the anachronism of those new rules confining women to a lesser status at a time when their contribution to the building of the nation, and to society, was widely acknowledged.

A slow but unrestrainable process had been triggered. Especially from the turn of the century onwards, legal drafts calling for the removal of marital authorisation from the legal system, for example, were presented to Parliament, leading eventually to its abrogation in 1919, with the passing of Law n. 1176.

Nonetheless, marital authorisation was not the only means to define women’s subordinate status, and there was still a long way to go. The right to vote, which up to 1918 was not even granted to all men, was only given to women with the *Decreto legislativo luogotenenziale* of 1 February 1945, n. 23. The dowry, the physical representation of inequality, was still included in the 1942 civil code, and then formally abolished only with Law n. 151 in 1975.

One might argue that in the present, at the cultural level, the path towards equality is not yet completed. With prejudices and stereotypes heavily persisting in and influencing Italian society, together with a considerable pay gap and the lack of adequate female representation in key private and public institutions, there is still much to do. However, formally and legally, men and women are equal. If the contribution of women and men such as Anna Maria Mozzoni, Anna Kuliscioff and Salvatore Morelli, to mention only a few, is

¹ On the discussion before the approval of the Pisanelli code, see *Codice civile del Regno d’Italia*, ed. by Galdi, pp. 231-32.

known and has been extensively analysed, the steps of ordinary people should also be acknowledged.

These people were the women – and sometimes the men – who, in their everyday life, contributed to changing history with small, ordinary actions. Some of them have been described in this study: they were those who initiated lawsuits asking for larger dowries or to end their marriage to an adulterous husband. They did not only attempt to improve their situation, but also challenged commonplaces and society, thus demonstrating a strong self-consciousness and an understanding of their subjectivity that theorists and moralists could no longer ignore. Although their encounter with the male-dominated, and often male-oriented, justice did not always have a favourable outcome, it should be noted that, in many cases, sentences were made in women's favour. These women, and these men, these anonymous and ordinary people, might not have had a prominent role in their world during their lifetimes; they left few historical traces, but, nevertheless, contributed to make our present.

Table 1. Nineteenth-century coinage

	Elaboration based on years	Coinage	Equivalent in lira italiana
Kingdom of Sardinia	1830-1844	Lira piemontese	1.17
Lombardy-Venetia	1830-1844	Lira Milanese	0.76
	1830-1844	Lira austriaca	0.87
	1830-1844	Lira veneta	0.71
Grand-Duchy of Tuscany	1830-1844	Scudo	6.3
	1830-1844	Lira	0.84
	1830-1844	Paolo	0.56
	1830-1844	Fiorino	1.4
Papal States	1830-1844	Scudo romano	5.38
	1830-1844	Lira bolognese	1.07
Duchy of Parma	1830-1844	Lira	0.24
Duchy of Modena	1830-1844	Lira of Modena	0.38
Kingdom of Two Sicilies	1861	Ducato	4.30

My elaboration is based on data included in D. Donini, *La metrologia europea comparata con quella di Roma, di Bologna, e di Parigi, e viceversa* (Terni: Possenti, 1833); L. Malavasi, *La Metrologia Italiana, nei suoi scambievoli rapporti desunti dal confronto col sistema metrico-decimale* (Modena: Malavasi and Compagno, 1844); *A Handbook for Travellers in Southern Italy: Being a Guide for the Provinces Formerly Constituting the Continental Portion of the Kingdom of the Two Sicilies* (London: Murray, 1868), and on legal documents analysed in this study.

Glossary

Ad sustinenda onera: to bear the burden. Usually, it refers to the dowry which is designed to bear the burden, or the expenses, of marriage.

Bona extra dotalia: goods that were not part of the dowry and were not secured against a mortgage. A woman could dispose of these goods without having to ask for permission from a judge.

Commune or *commune civitatis*: Medieval city-state.

Controdote or *antifactum* or *antefactum*: counterdowry, a marriage gift of Roman origin given by the groom to the bride; usually its value was half that of the dowry.

Dowry instrument: a written instrument concerning the dowry and containing dotal agreement, normally rogated by a notary.

Familia: all people descending from the same ancestor. In a broader sense, *familia* is the whole household. It may also include servants and other collaborators.

Fideicommissum: a testamentary disposition, by which a testator imposes on a person the obligation to hold and transfer the concerned goods to a third person. This institution was used to preserve the patrimony and transmit it within the members of a family.

Filiusfamilia or *filiafamilia*: literally son/daughter of a family, he/she was under the authority (guardianship) of his/her father or of the *paterfamilias* until his death or his/her emancipation.

Hereditament: the property of a testator composed of a portion, which could be freely disposed of (the free estate or discretionary portion) and an indefeasible portion (forced heirship or *legitima portio*).

Hotchpot: a fictitious reunion of properties in order to secure equal division among heirs in an *ab intestato* succession.

Inter vivos donation: a donation which produces legal effects while the interested parties are still alive.

Ius commune: literally 'common law'; used to define Roman and canon law. The term *commune* meant that it was in use in several states.

Ius proprium: used in opposition to *ius commune* to indicate the law of a specific state.

Lucrum dotis: the gain a man was entitled to keep before returning the dowry to his wife's heirs after her death.

Majorat: the right of succession to property accorded to first-born sons.

Odium quartae: aversion towards the wife's traditional claim to one-quarter of her husband's property as her marriage gift.

Paterfamilias: father or other male ancestor. He was the head of the family and could have under his power children and grand-children *ex filio* (from the side of his own son) but not *ex filia*.

Paterna paternis, materna maternis: this expression was used to signify that goods coming from the father of a deceased person descended to his paternal relations and those from the mother to the maternal side.

Peculium: the wealth that the *filiusfamilia* or *filiafamilia* could have which was not part of the patrimony of the familia.

Portio legitima or *legitima portio*: the portion of inheritance that could not be bequeathed by will.

Propter dotem: literally 'because of the dowry'. Usually used to mean the exclusion of a woman from inheritance because she already had a dowry.

Quarta: marriage gift of Lombard origin used in many Italian cities. The wife was granted the right to obtain a quarter of her husband's property after his death.

Successione ab intestato: an inheritance by intestacy, or the succession to the property of a person who dies without a valid will.

Sui juris: of one's own right. It defines an emancipated person who is not under the guardianship of someone else.

Tertia: marriage gift of Frankish origin used in many Italian cities. The wife was granted the right to obtain one-third of her husband's property after his death.

Bibliography

Primary sources

Unpublished manuscripts (cited in the body of the text)

Fano, Archivio della Biblioteca Federiciana, 1846, Documenti vari.

Milan, Archivio Diocesano, Carteggio Ufficiale, April 1855, 472.

Milan, State Archive of Milan (SAM), Processi Politici, 43.

—— Processi Politici, 1112.

—— Processi Politici, 1127.

Pesaro, State Archive of Pesaro, Notaio Luigi Perotti, 1854.

Turin, State Archive of Turin, Casale, Corte di Appello, Second Semester, 1839, n. 4.

—— Casale, Corte di Appello, First Quarter of 1849, n. 31.

—— Casale, Corte di Appello, Second Semester of 1853, n. 45.

—— Corte di Cassazione, 1852, 9, n. 242.

—— Giudice di Appello, Sentenza Civili, April 1850, n. 315.

—— Notaio Giovanni Pietro Ellena, 1791, n. 2262.

—— Notaio Giovanni Pietro Ellena, 1801, n. 2271.

—— Tribunale di Pinerolo, Sentenze civili, First Quarter of 1847, n. 60.

Verona, Bishop's Curia of Verona, Matrimoniorum, Processi, 1830-1844, 26.

—— Matrimoniorum, Dipense, 1863.

Verona, State Archive of Verona, 1865, Testamenti, n. 73, n. 2000.

—— 1865, Testamenti, n. 73, n. 3260.

Sources of law

Atti del governo di Lombardia. Parte prima dal 1° gennajo al 30 giugno 1816 (Milan: Imperiale Regia Stamperia, 1816).

Code civil des Français: édition originale et seule officielle (Paris: Imprimerie de la République, 1804).

Codice civile del Regno d'Italia, ed. by D. Galdi (Naples: Marghieri and Perrotti, 1865).

Codice civile del Regno d'Italia: corredato della relazione del Ministro Guardasigilli fatta a S. M. in udienza del 25 giugno 1865 (Turin: Botta, 1865).

Codice civile di Napoleone il Grande pel regno d'Italia (Turin: Reale Stamperia, 1806).

Codice Civile per gli Stati Estensi (Modena: Eredi Tipografi Reali, 1851).

Codice civile per gli Stati di S. M. il re di Sardegna (Turin: Stamperia reale, 1837).

Il Codice Civile spiegato in ciascuno de' suoi articoli con annotazioni ed esempi (Turin: Cassone, Marzorati, Vercellotti, 1839).

Codice criminale e di procedura criminale per gli Stati Estensi (Modena: Eredi Soliani Tipografi Reali, 1855).

Codice de' delitti e delle gravi trasgressioni politiche (Vienna: Stamperia Reale, 1803).

Codice dei Delitti e delle Pene pel Regno d'Italia (Milan: Reale Stamperia, 1810).

Codice di procedura civile per gli stati di S. M. il Re di Sardegna (Turin: Stamperia reale, 1859).

Codice di procedura civile per gli Stati estensi (Modena: Eredi Soliani, 1852).

Codice di procedura penale per gli Stati di S. M. il re di Sardegna (Turin: Stamperia reale, 1859).

Codice penale dei crimini, dei delitti e delle contravvenzioni, e regolamento sulla stampa del 27 maggio 1852 (Vienna: Manz, 1869).

Codice penale pel Granducato di Toscana (Florence: Stamperia granducale, 1853).

Codice Penale per gli Stati di S. M. il Re di Sardegna (Turin: Minerva Subalpina, 1840).

Il codice penale per il Regno d'Italia, ed. by G. Crivellari (Rome: Unione Tipografica, 1889).

Collezione Completa dei Moderni Codici Civili (Turin: Minerva Subalpina, 1845).

Constitutiones Mediolanensis (Milan: Marelli, 1764)

Corpus Iuris Civilis, ed. by D. Gothofredo, 4 vols (Lyon: Vincentij, 1583).

'The Council of Trent. The Twenty-Fourth Session', in *The Canons and Decrees of the Sacred and Oecumenical Council of Trent*, ed. and trans. by J. Waterworth (London: Dolman, 1848), pp. 192-232, <<https://history.hanover.edu/texts/trent/ct24.html>> [accessed on 30 April 2017].

Decisioni del Supremo tribunale di revisione con note ed opuscoli relativi del cavaliere Francesco Melegari: Dal 27 aprile al 28 dicembre 1829 (Parma: Carmignani,

1832).

‘Dei Miseratione, 3 November 1741’, in *Sanctissimi domini nostri Benedicti Papae XIV, Bullarium*, 4 vols (Venice: Occhi, 1768), I, pp. 695-701.

Leggi, e costituzioni di Sua Maestà. Loix et constitutions du Roi (Turin: Valletta, 1723).

Leggi, e costituzioni di Sua Maestà. Loix et constitutions de Sa Majesté, 2 vols (Turin: Accademia Reale, 1729).

Leggi, e costituzioni di Sua Maestà. Loix et constitutions de Sa Majesté, 2 vols (Turin: Stamperia Reale, 1770).

Raccolta degli atti del governo di Sua Maestà il Re di Sardegna dall’anno 1814 a tutto il 1832, 22 vols (Turin: Pignetti and Carena, 1842).

Raccolta delle Leggi e Disposizioni di pubblica amministrazione nello Stato Pontificio (Rome: Stamperia della R.C. A., 1850).

Raccolta delle leggi, decreti, ordinanze e regolamenti del governo dello Stato Romano, 3 vols (Bologna: Tiochi, 1849).

Raccolta delle leggi del 3 marzo e 26 aprile 1848 e successive 15 e 16 luglio 1859 per la formazione delle liste elettorali (Florence: Stamperia Governativa, 1859).

Raccolta di alcune leggi aventi stretta relazione col codice civile per gli Stati Estensi (Modena: Eredi Soliani, 1852).

Raccolta di alcune notificazioni, editti, ed istruzioni: opera vtilissima a tutti gli ecclesiastici, 5 vols (Venice: Pitteri, 1740).

Regolamento generale del processo civile del regno lombardo veneto (Milan: Regia Stamperia, 1854).

Regolamento generale di procedura penale del 29 luglio 1853 per l’Impero d’Austria (Milan: Imperiale Regia Stamperia, 1853).

Il sacrosanto Concilio di Trento co’ canoni e decreti emanati sotto Paolo III, Giulio III e Pio IV Sommi Pontefici con aggiunta di altre Bolle, Costituzioni Pontificie ec. ec. (Naples: Marotta, 1834).

Statuti di Milano: volgarizzati con note, e spiegazioni (Milan: Galeazzi, 1773).

Statuto fondamentale del Regno d’Italia, 4 marzo 1848 (Padua: Salmin, 1866).

Journals

Annali di giurisprudenza raccolta mensile pubblicata da una società di avvocati e causidici

(1838-1845).

Archivio Giuridico (1868-1897).

Corriere delle dame (1804-1874).

Giornale del Foro (1817-1875).

Giurisprudenza del codice civile e delle altre leggi dei regj stati ossia collezione metodica e progressiva delle decisioni e sentenze pronunciate dai supremi magistrati sia dello stato che stranieri (1839-1847); then *Giurisprudenza degli Stati Sardi* (1848-1859); then *Giurisprudenza del Regno* (1860-1861); then *Giurisprudenza italiana* (1862).

Giornale di giurisprudenza universale (1811-1814).

Giurisprudenza pratica secondo la legislazione austriaca attivata anche nel Regno Lombardo-Veneto o sia collezione di decisioni sentenze e decreti in materia civile commerciale criminale di diritto pubblico (1817-1833); then *Giurisprudenza teorico-pratica secondo la legislazione austriaca o sia Collezione di decisioni sentenze e decreti in materia civile commerciale criminale e di diritto pubblico* (1836-1845).

Giornale di giurisprudenza austriaca, ossia raccolta di memorie e dissertazioni sulle più importanti questioni del diritto austriaco (1839-1846).

Giornale di giurisprudenza pratica (1846-1862).

Guida dell'educatore (1836-1842).

La donna italiana: giornale politico-letterario (1848)

La temi: giornale di legislazione e di giurisprudenza (1847-1864).

Studii per le donne italiane (1836-1843).

Collections of legal acts and proceedings

Acta causae. Romana. Praetensae mercedis, coram Seraphino Olivier-Razali (1538-1609)
([n. p.]: [n. pub.], 1566).

Decisiones S. Rotae Romanae coram Cosmae de Cursiis, eiusdem S. Rotae olim Decano, modo S. R. E. cardinali emeritissimo, ed. by A. Cavallini, 5 vols (Rome: Cajetani Chiassi, 1855).

Decisioni del Foro Toscano inedite dall'anno 1815, all'anno 1819, ed. by L. Cantini and D. Nenci, 5 vols (Florence: Stamperia del Giglio, 1821-1828).

Decisioni del Supremo tribunale di revisione con note ed opuscoli relativi del cavaliere Francesco Melegari: Dal 27 aprile al 28 dicembre 1829 (Parma: Carmignani, 1832).

Decisiones Sacrae Rotae Romanae coram Josepho Alphonso de Véri (Rome: Fulgoni, 1787).

Il digesto italiano: enciclopedia metodica comparata e alfabetica di legislazione, dottrina e giurisprudenza (diritto civile, commerciale, penale, giudiziario, costituzionale, amministrativo, internazionale, pubblico e privato, ecclesiastico, militare, marittimo, storia del diritto, diritto romano, legislazione comparata) (Turin: Unione tipografico-editoriale, 1894).

Giurisprudenza romana ossia corpo del diritto civile romano volgarizzato col testo a fronte (Milan: Baret, 1815).

Processi segreti della Sacra Consulta di Roma contro i liberali d'Italia (Milan: Colombo, 1860).

Sacrae rotae romanae decisiones coram Josepho Molines (Rome: Zinghi and Monaldi, 1728).

Stato degli inquisiti dalla S. Consulta per la rivoluzione del 1849 (Rome: Vittoriano, 1937).

Registro delle persone di Fano e suo distretto pregiudicate in opinione politica (30-12-1834).

Registro di Pesaro e suo distretto pregiudicate in opinione politica (12-6-1835), published in *Studia Oliveriana*, 10 (1990).

Tesoro del foro toscano o sia Raccolta delle decisioni del Supremo Consiglio e delle Regie Ruote civili delle prime appellazioni di Toscana, ed. by L. Cantini (Florence: Stamperia del giglio, 1820-1841).

Books and periodicals

Aquinas, T., *La somma teologica. Testo latino e italiano* (Bologna: Edizioni Studio Domenicano, 1985 [1485])

Albericus of Rosciate, *Dictionarium iuri tam civilis quam canonici* (Venice: [n. pub.], 1581).

Albertazzi, J.A., *Il padre di famiglia in casa ed in campagna* (Lucca: Bertini, 1812).

- Alessandrini, A., *I fatti politici delle Marche dal 1 gennaio 1859 all'epoca del plebiscito* (Macerata: Libreria editrice marchigiana, 1910).
- Alighieri, Dante, *La Divina Commedia*, ed. by G. Petrocchi (Turin: Einaudi, 1975).
- Amati, A., *Manuale sul Codice civile generale austriaco* (Milan: Visaj, 1844).
- Archini, F.I., *Dei diritti acquistati in forza delle leggi civili abrogate al primo gennaio 1816* (Milan: Baret, 1816).
- Balbo, C., *Delle speranze d'Italia* (Capolago: Tipografia Elvetica, 1844).
- *Pensieri ed esempi: opera postuma; con l'aggiunta dei Dialoghi di un maestro di scuola pure inediti* (Florence: Le Monnier, 1856).
- Bartolus of Saxoferrato, *Commentaria in primam infortiati partem* (Lyon: Fradin, 1551).
- *Commentaria in Corpus iuris civilis. Super Authenticis, & Institutionibus* (Venice: Giunta, 1585), Collatio IX, 54.
- Beccaria, C., *Dei delitti e delle pene* (Paris: Cazin, 1786).
- Bellati, A., *Il diritto della donna alla sua emancipazione provato dalla ragione, dalla storia, dalla fisiologia e dall'anatomia* (Ferrara: Tipografia Sociale, 1874).
- Bellomo, G., *Saggio sopra il più conveniente sistema di femminile educazione* (Venice: Tasso, 1832).
- Bernini, D., *Il tribunale della S. Rota Romana* (Rome: Bernabò, 1717).
- Bianchi, E., 'La inabilitazione e l'assenza del marito in materia di autorizzazione maritale, osservazioni sull'art. 135 N.º 1 del Codice civile italiano', *Archivio giuridico*, 40 (1888), 552-66.
- Bollati, E., *Fasti legislativi e parlamentari delle rivoluzioni italiane nel secolo XIX*, 3 vols (Milan: Giuseppe Civelli, 1863-1866).
- Bowring, J., *Statistica della Toscana, di Lucca, degli Stati Pontifici e Lombardo-Veneti e specialmente nelle loro relazioni commerciali* (London: Clowes, 1838).
- Browne, T., *Religio Medici: Or, the Christian Religion, as Professed by a Physician; Freed from Priest-Craft and the Jargon of Schools*, 2 vols (London: Curll, 1736 [1643]), II.
- Bruno, G.A., *Introduzione alla canonica giurisprudenza* (Bologna: Rocchi, 1837).
- Buniva, G., *Del diritto delle persone secondo il Codice Civile del Regno d'Italia*, 2 vols (Turin: Arnaldi, 1871).

- *Delle leggi in generale e del diritto delle persone: sunti delle lezioni di diritto civile* (Turin: Tipografia Economica, 1858).
- Buzzi Bonfichi, F., *Vantaggi della donna istruita* (Turin: Fontana, 1841).
- Cabanis, P.J.G., *Rapports du physique et du moral de l'homme* (Paris: Fortin, Masson, 1843).
- Califronia, R., *Breve difesa dei diritti delle donne scritta da Rosa Califronia contessa romana* (Assisi: Taglioretti, 1794).
- Campan, J.L.H.G. (Madame Campan), *Dell'educazione*, 2 vols (Milan: Rezzi, 1827).
- Canonici Fachini, G., *Prospetto biografico delle donne italiane rinomate in letteratura dal secolo decimoquarto fino a' giorni nostri, di Ginevra Canonici Fachini: con una risposta a lady Morgan riguardante alcune accuse da lei date alle donne italiane nella sua opera "L'Italie"* (Venice: Alvisopoli, 1834).
- Capponi, G., *Pensieri sull'educazione. Frammento inedito 1841* (Lugano: Tipografia della Svizzera Italiana, 1845).
- Caramelli, G., *Sulla riforma della organizzazione giudiziaria negli stati Pontifici. Brevi cenni* (Rome: Ajani, 1847).
- Carcano, G., *Il codice civile austriaco ed i suoi caratteri* (Milan: Manini, 1860).
- Carillo, F., *Dizionario universale ossia repertorio ragionato di giurisprudenza e quistioni di diritto di Merlin*, 14 vols (Venice: Antonelli, 1836), IV.
- Carmignani, G., *Juris criminalis elementa* (Pisa: Nistri, 1833).
- *Teoria delle leggi della sicurezza sociale*, 3 vols (Pisa: Nistri, 1831).
- Casanova, G., *Lana Caprina: lettre d'un lycanthrope* (Paris: Librairie de la société casanovienne, 1926 [1772]).
- Castellari, G., *Della condizione giuridica della donna secondo il Codice civile italiano* (Turin: Bona, 1877).
- Cattaneo, C., *D'alcune istituzioni agrarie dell'alta Italia applicabili a sollievo dell'Irlanda* (Milan: Bernardoni di Giovanni, 1847).
- *Scritti sulla Lombardia*, ed. by G. Anceschi and G. Armani (Milan: Ceschina, 1971).
- Cavallari Cantalamessa, G., *La donna nel Risorgimento nazionale* (Bologna: Zanichelli, 1893).
- Chardon, O.J., A. Lombardi, and F. Cafaro, *Trattato delle tre potestà maritale, patria e*

- tutelare* (Naples: Pedone Lauriel, 1848).
- Chassay, F.E., *I doveri delle donne nella famiglia* (Milan: Volpato, 1856).
- Cioffi, A., *Esame critico-storico sul diritto delle donne alla successione intestata* (Turin: Pelazza, 1853).
- Concone, F., *Giurisprudenza femminile* (Turin: Fumero Maggiore, 1839).
- Condorcet, J.A.N., *Sur l'admission des femmes au droit de cité* (Paris: Firmin Didot, 1790).
- Corso, R., *Di un preteso avanzo di matrimonio per ratto* (Scansano: Olmi, 1919).
- Cosci, C., and J.C. Clusini, *De separatione tori conjugalis tam nullo existente seu soluto, quam salvo vinculo matrimonii, eiusque effectibus*, 3 vols (Rome: Salvioni, 1773-1779), I.
- Criscuolo, F., *La donna nella storia del diritto privato italiano* (Palermo: Carini, Caronna and Macoclin, 1885).
- Cubain, R., *Trattato dei diritti delle donne: in materia civile e commerciale* (Palermo: Amenta, 1856).
- D'Oria, P.M., *Ragionamenti di Paolo-Mattia D'Oria indirizzati alla signora d. Aurelia d'Este duchessa di Limatola ne' quali si dimostra la donna, in quasi che tutte le virtù più grandi, non essere all'uomo inferiore* (Frankfurt: [n. pub.], 1716).
- Davies Morgan, H., *The Doctrine and Law of Marriage, Adultery and Divorce* (Oxford: Baxter, 1826).
- Darwin, C., *The Descent of Man, and Selection in Relation to Sex* (London: Murray, 1871).
- De Luca, G.B., *Il cavaliere e la dama, ovvero Discorsi familiari nell'ozio tuscolano* (Pavia: Magri, 1700 [1675]).
- *Il dottor volgare, ovvero Il compendio di tutta la legge civile, canonica, feudale e municipale, nelle cose più ricevute in pratica, moralizzato in lingua italiana*, 6 vols ([n.p.]: [n.pub.], 1673).
- De Novaes, G., *Elementi della storia de' sommi pontefici: da San Pietro sino al felicemente regnante Pio Papa VII ed alla Santità Sua dedicati per l'uso de' giovani studiosi* (Siena: Stamperia del Magistrato Civico, 1805).
- De Roberto, D., *La dote di paraggio del diritto patrio* (Bari: Laterza, 1897).
- De Sterlich, A., *Annotazioni alla legge sull'amministrazione comunale e provinciale del 20 marzo 1865* (Naples: Trani, 1865).

- Della Porta, G.B., *De humana physiognomonia libri sex*, ed. by A. Paoletta (Naples: Edizioni scientifiche italiane, 2013).
- Devincenzi, G., 'Relazione sull'agricoltura dell'Alto e del Basso Milanese', *Annali universali di statistica*, 81 (1844), 329-38.
- Del Forno, N., *La storia civile del Regno di Napoli in compendio* (Naples: De Dominicis, 1841).
- Delacoux, A., *Igiene delle donne, ossia Precetti di salute all'uso loro nella vita privata traduzione dal francese di N.P.* (Milan: Pirota, 1830).
- Di Letizia, A., and G. Doria, *Degli usi de' proceri, e magnati e di Capuana, e Nido* (Naples: Perger, 1786).
- Donini, D., *La metrologia europea comparata con quella di Roma, di Bologna, e di Parigi, e viceversa* (Terni: Possenti, 1833).
- Enciclopedia dell'ecclesiastico*, 4 vols (Naples: Ranucci, 1844).
- Ermini, F., *Gli ordinamenti politici e amministrativi nelle "Constitutiones Aegidianae"* (Florence: Bocca, 1893).
- Farini, L.C., *Lo Stato romano dall'anno 1815 al 1850*, 4 vols (Florence: Le Monnier, 1853).
- Federigo, G., *Osservazioni sugli effetti del gallico nel popolo, ed i metodi più facili di curarlo* (Venice: Andreola, 1791).
- Ferriani, L., *La infanticida nel codice penale e nella vita sociale: considerazioni* (Milan: Dumolard, 1886).
- Filangieri, G., *La scienza della legislazione*, 8 vols (Genoa: Gravier, 1798 [1780]).
- Filomusi Guelfi, F., *Enciclopedia giuridica ad uso di lezioni* (Naples: Jovene, 1873).
- Finali, G., *Le Marche: ricordanze* (Ancona: Morelli, 1896).
- Finotti, G., *Della educazione intellettuale e morale della donna* (Caserta: Saccone, 1894).
- Fontana, A., *Manuale per l'educazione umana* (Milan: Fontana, 1834)
- Foramiti, F., *Enciclopedia, legale; ovvero Lessico ragionato di gius naturale, civile, canonico, mercantile-cambiaro marittimo, feudale, penale, pubblico-interno e delle genti* (Venice: Gondoliere, 1842).
- Fornasotto, E., *La condizione giuridica della donna nella storia del diritto romano, con riguardo alla questione dell'emancipazione della donna* (Conegliano: Nardi, 1902).
- Forti, F., *Trattati inediti di giurisprudenza* (Florence: Viessieux, 1854).

- Franceschi Ferrucci, C., *Ai giovani italiani: ammaestramenti religiosi e morali* (Florence: Le Monnier, 1877).
- *Degli studi delle donne: libri quattro* (Turin: Pomba, 1853).
- *Degli studi delle donne italiane* (Florence: Le Monnier, 1876).
- *Della educazione intellettuale: libri quattro indirizzati alle madri italiane* (Turin: Pomba, 1849-1851).
- *Della educazione morale della donna italiana: libri tre* (Turin: Pomba, 1847).
- *Epistolario di Caterina Franceschi Ferrucci: edito ora la prima volta, con lettere di scrittori illustri a lei* (Reggio Emilia: Guidetti, 1910).
- *Lecture morali ad uso delle fanciulle - Alle alunne dell'Istituto italiano in Genova*, 3 vols (Genoa: Tipografia del R. I. de' sordo-muti, 1851-1852).
- Franchetti, L., *Condizioni economiche e amministrative delle provincie napoletane* (Florence: Gazzetta d'Italia, 1875).
- Gabba, C.F., *Della condizione giuridica delle donne nelle legislazioni francese, austriaca e sarda* (Milan: Radaelli, 1861).
- *La questione femminile e la principessa Dora d'Istria: considerazioni* (Florence: Le Monnier, 1865).
- Galdi, D., *Enciclopedia legale, ovvero Repertorio alfabetico di legislazione, giurisprudenza e dottrina in materia di dritto civile, commerciale, criminale, amministrativo, canonico, pubblico, naturale e delle genti*, 5 vols (Naples: Marghieri, 1864-1868).
- Galeotti, A., *La patria potestà: tesi di laurea del dott. Amilcare Galeotti* (Siena: Lazzeri, 1872).
- Galligo, I., *Sulla vaccinazione celtica o meglio sulla sifilizzazione nell'uomo* (Florence: Cecchi, 1852).
- Gallini, C., *La donna e la legge: studi sulla condizione sociale e giuridica della donna* (Rome: Civelli, 1872).
- Galluppi, E., *La successione dei conjugi nella storia interna del diritto italiano* (Rome: Civelli, 1873).
- Galton, F., *Hereditary Genius: An Inquiry into its Laws and Consequences* (New York: Appleton, 1870).
- Gentile, E., *Teorico-pratica secondo l'ecclesiastica, e la civil polizia*, 2 vols (Naples:

- Manfredi, 1794), II.
- Gioberti, V., *Apologia del libro intitolato Il gesuita moderno con alcune considerazioni intorno al Risorgimento Italiano* (Brussels and Livorno: Meline and Cans, 1848).
- *Del rinnovamento civile d'Italia*, ed. by F. Nicolini (Bari: Laterza, 1911-1912).
- *Pensieri di Vincenzo Gioberti: miscellanea* (Turin: Eredi Botta, 1859-1860).
- *Delle condizioni presenti e future d'Italia* (London: [n. pub.], 1848).
- *Il gesuita moderno*, 5 vols (Naples: Batelli, 1849).
- Giuriati, D., *Le leggi dell'amore* (Turin: Roux Frassati, 1895).
- Gouges, O., *Déclaration des droits de la femme et de la citoyenne*, ed. by E. Gaulier (Paris: Mille et une nuits, 2003).
- Grimaldi, G., *Dissertazione di Ginesio Grimaldi sul punto dello scioglimento de' matrimoni per cagion d'impotenza* (Naples: Simoniana, 1765).
- Guerrazzi, F.D., *Amelia Calani ed altri scritti* (Milan: Guigoni, 1868).
- A Handbook for Travellers in Southern Italy: Being a Guide for the Provinces Formerly Constituting the Continental Portion of the Kingdom of the Two Sicilies* (London: Murray, 1868).
- Jacini, S., *Atti della Giunta per la Inchiesta Agraria e sulle condizioni della classe agricola*, 15 vols (Rome: Forzani, 1885).
- *L'inchiesta agraria: proemio, relazione finale, conclusioni dell'inchiesta sulla Lombardia interpellanza al Senato* (Piacenza: Federazione italiana dei consorzi agrari, 1926).
- *La proprietà fondiaria e le popolazioni agricole in Lombardia: studj economici* (Milan: Borroni e Scotti, 1854).
- Kant, I., *On the Old Saw. That May Be Right in Theory but it Won't Work in Practice* (Berlin and Boston: University of Pennsylvania Press, 2013 [1793]).
- Klenze, C.A.C., and E. Böcking, *Gaii et Iustiniani, Institutiones iuris romani* (Berlin: Imbensis, 1829).
- La Mantia, V., *Storia della legislazione italiana* (Rome: Bocca, 1884).
- Lambruschini, R., *Sull'utilità della cooperazione delle donne bennate al buon andamento delle scuole infantili per il popolo* (Milan: Stella, 1834).
- 'I piaceri delle madri', in E. Rossi, ed., *Florilegio femminile* (Genua: Ferrando, 1840),

pp. 363-70.

- Lattanzi, C., *Schiavitù delle donne*, ed. by G. Zacchè (Mantua: Edizioni Lombarde, 1976).
- Lavater, J.K., *Physiognomy: Or the Corresponding Analogy between the Conformation of the Features, and the Ruling Passions of the Mind* (London: Tegg, 1866).
- Le Play, F., *L'Organisation de la famille, selon le vrai modèle signalé par l'histoire de toutes les races et de tous les temps* (Paris: Tequi, 1871).
- *La Réforme sociale en France déduite de l'observation comparée des peuples européens* (Paris: Dentu, 1887).
- Leopold, *Il mentore dei mariti e delle mogli o sia sposizione dei mezzi di essere felici nel matrimonio in tutte le classi diverse della società* (Milan: Giegler, 1819).
- Lombroso, C., *L'uomo delinquente* (Milan: Hoepli, 1876).
- and G. Ferrero, *La donna delinquente, la prostituta e la donna normale* (Turin: Bocca, 1903).
- Lomonaco, V., *Storia de principii della legislazione* (Naples: Azzolino, 1844).
- Lorenzoni, A., *Scelta di disposizioni del diritto romano* (Padua: Cartallier and Sicca, 1838).
- Magnani, A., *Commentario all'editto successorio toscano de' 18 agosto 1814* (Pisa: Ranieri Prosperi, 1831-1832).
- Malavasi, L., *La Metrologia Italiana, nei suoi scambievoli rapporti desunti dal confronto col sistema metrico-decimale* (Modena: Malavasi and Compagno, 1844).
- Mantegazza, P., *Fisiologia del piacere* (Milan: Bernardoni, 1874).
- *Fisiologia della donna* (Milan: Bietti, 1945 [1893]).
- Maranta, R., *Speculum aureum et lumen aduocatorum praxis ciuilis* (London: Symphorianum Beraud, 1573).
- Marcadé, V., *Spiegazione teorico-pratica del Codice Napoleone contenente l'analisi critica degli autori e della giurisprudenza*, 5 vols (Naples: Marghieri, Giachetti, 1874), V.
- Marchetti, R., *Notizia delle giurisdizioni che sono in vigore nello Stato Pontificio* (Rome: Menicanti, 1850).
- Maréchal, S., *Progetto di legge per vietare alle donne di imparare a leggere* (Milan: Archinto, 2007 [1801]).
- Marini, C., *Lezioni di dritto civile novissimo*, 4 vols (Naples: Osservatore medico, 1830-1832).

- Massei, G., *La scienza medica della povertà ossia La beneficenza illuminata: pensieri* (Florence: Galileiana, 1858).
- Mazzini, G., *Scritti editi e inediti*, 25 vols (Milan: Daelli, 1886).
- *Dei doveri dell'uomo* (Milan: RCS, 2010 [1860]).
- Mill, J.S., *La servitù delle donne*, transl. by A.M. Mozzoni (Milan: Legros, 1870).
- Menestrina, F., *Il processo civile nello Stato Pontificio* (Turin: Bocca, 1908).
- Mercanti, F., *Compendio di diritto canonico con illustrazioni storico-dogmatiche*, 4 vols (Prato: Guasti, 1832).
- Moebius, P.J., *L'inferiorità mentale della donna* (Turin: Bocca, 1904).
- Molino Colombini, G., *Sulla educazione della donna: pensieri* (Turin: Fory and Dalmazzo, 1851).
- Monnier, M., *Garibaldi: histoire de la conquête des Deux-Siciles* (Paris: Lévy frères, 1861).
- Morardo, G., *L'arte di conservare ed accrescere la bellezza delle donne* (Turin: Morano, 1800-1801).
- Morelli, S., *La donna e la scienza considerate come soli mezzi atti a risolvere il problema dell'avvenire* (Naples: Stabilimento tipografico delle belle arti, 1861).
- *La donna e la scienza o La soluzione del problema sociale* (Naples: Tipografico dell'Ancora, 1863).
- *Lettera politica del deputato Salvatore Morelli ai suoi elettori del collegio di Sessa Aurunca* (Naples: De Angelis, 1868).
- *Riforme legislative proposte al Parlamento italiano dal deputato Salvatore Morelli il giorno 26 maggio 1875 per assicurare con nuove guarentigie giuridiche la sorte dei fanciulli e delle donne* ([n. p.]: [n. pub.], 1875).
- Mozzoni, A.M., *La donna e i suoi rapporti sociali* (Milan: Tipografia Sociale, 1864).
- *La donna in faccia al progetto del nuovo Codice civile italiano* (Milan: Tipografia Sociale, 1865).
- Muratori, L.A., *Dei difetti della giurisprudenza* (Venice: Pasquali, 1742).
- Muratori, L.A., *Della pubblica felicità, oggetto de' buoni principi* (Lucca: [n. pub.], 1749).
- Negri, G.M., *Dei difetti del Codice Civile Italico, che porta il titolo di Codice Napoleone e dei pregi del Codice Civile Austriaco* (Vicenza: Parise, 1815).
- Niceforo, A., *L'Italia barbara contemporanea: studi e appunti* (Milan: Sandron, 1898).

- Oldrati, L., *Codice penale austriaco attualmente in vigore nel regno Lombardo-Veneto con osservazioni teorico-pratiche e confronto coll'antecedente abrogato* (Milan: Manini, 1852).
- Oriani, A., *Il matrimonio* (Bologna: Cappelli, 1923 [1886]).
- Pacifici Mazzoni, E., *Il codice civile italiano commentato con la legge romana, le sentenze dei dottori e la giurisprudenza*, 14 vols (Florence: Cammelli, 1873), V-VII.
- *Studio storico sulla successione legittima dalle XII tavole al Codice civile italiano* (Modena: Vincenzi, 1870).
- Paladini, L.A., *Manuale per le giovinette italiane* (Florence: Le Monnier, 1866 [1851]).
- Pani Rossi, E., *La Basilicata libri tre. Studi politici, amministrativi e di economia pubblica* (Verona: Civelli, 1868).
- Pensieri della libera cittadina I. P. M. alle sue concittadine* (Venice: Zatta, 1797).
- Pepoli Sampieri, A., *La donna saggia ed amabile: libri tre* (Capolago: Elvetica, 1838).
- Peraldi, M.F., *Conferenza sul temporal governo degli ecclesiastici* (Bastia: Fabiani, 1840).
- *Considerazioni politiche sul governo dello Stato pontificio* (Pesaro: Nobili, 1832).
- Pertile, A., *Storia del diritto italiano: dalla caduta dell'Impero Romano alla codificazione*, 6 vols (Padua: Salmin, 1874), IV.
- Piano, M., and G. Labus, 'Meditazione VI, Sul vizio della disonestà. *A spiritu fornicationis libera nos, Domine*', in *Istruzioni dogmatiche parrocchiali e discorsi evangelici: coll'aggiunta di due ragionamenti* (Milan: Manini, 1839), pp. 691-94.
- Pisani, E., *La condizione giuridica della donna: disegno di legge Gallini* (Rome: Tipografia della Camera dei deputati, 1911).
- Polatti, G., *Della protezione accordata alla donna dal cristianesimo* (Vicenza: Paroni, 1844).
- Pouget, F., *La buona madre, o sia vita di Teresa di Lamourous fondatrice e prima superiora della casa di misericordia di Bordeaux* (Milan: Boniardi-Pogliani, 1846).
- Puccinotti, F., *Lezioni di medicina legale* (Macerata: Mancini-Cortesi, 1835).
- Quistione transitoria se un monaco professo suddito del regno Lombardo-Veneto possa succedere ad una eredità apertasi in quel regno 1817 per quanto riflette i bene situati in Piemonte* (Milan: Pogliani, 1819).
- Ravizza, C., *Un curato di campagna: schizzi morali* (Milan: Pirola, 1841).

- Re, F., *Nuovi elementi di agricoltura* (Milan: Silvestri, 1837).
- Renazzi, F.M., *Elementa juris criminalis. Liber primus. De delictis generatim* (Bologna: Francisci Cardinali et Caroli Frulli, 1826).
- Repetti, E., *Compendio storico della città Firenze, sua comunità, diocesi e compartimento fino all'anno 1849* (Florence: Tofani, 1849).
- Rinuccini, E., *Ti lascio con la penna, non col cuore: lettere di Eleonora Rinuccini al marito Neri dei principi Corsini: 1835-1858*, ed. by C. Badon (Florence: Firenze University Press, 2012).
- Rösler, A., *La condizione della donna nell'umana convivenza* (Turin: Marietti, 1915).
- Romagnosi, G.D., *Discorso sull'amore delle donne: considerato come motore precipuo della legislazione* (Trento: Monauni, 1792).
- *Opere* (Milan: Perelli and Mariani, 1845).
- *Opere del professore G. D. Romagnosi* (Florence: Piatti, 1832-1839).
- *Opere, Istituzioni di civile filosofia ossia di giurisprudenza teorica* (Florence: Piatti, 1832-1839).
- Rossi, G., *Sulla condizione economica e sociale dello Stato Pontificio confrontata specialmente con quella della Francia e della Inghilterra* (Bologna: Società Tipografica Bolognese, 1848).
- Rossi, P., *Cours d'économie politique* (Paris: Guillaumine et Cie. Libraires, 1854).
- *Trattato di diritto penale* (Milan: Borroni and Scotti, 1832).
- Rousseau, J.J., *Émile ou de l'éducation*, ed. by F. and P. Richard (Paris: Garnier, 1951).
- Roussel, P., *Sistema fisico e morale della donna seguito dal Sistema fisico e morale dell'uomo e da un frammento sulla sensibilità*, 2 vols (Naples: Manzi, 1829).
- Rusconi, C., *La Repubblica romana del 1849*, 2 vols (Turin: Cassone, 1850).
- Salzano, M.T., *Lezioni di diritto canonico pubblico, e privato considerato in sé stesso e secondo l'attual polizia del Regno delle Due Sicilie*, 4 vols (Naples: Giordano, 1843), IV.
- Salvatori, F.M., *Istruzione pratica per i confessori novelli: divisa in due parti* (Turin: Marietti, 1832).
- Scarpazza, F., *Decisioni dei casi di coscienza e di dottrina canonica*, 13 vols (Naples: Nuovo Gabinetto Letterario, 1828), I.

- Scevola, A., *L'autorizzazione maritale ed il mandato conferto dalla moglie al marito* (Turin: Unione Tipografico-Editrice, 1888).
- Sclopis, F., *Della legislazione civile: discorsi* (Turin: Bocca, 1835).
- *Storia della legislazione italiana*, 5 vols (Turin: Unione Tipografico-Editrice, 1863-1864).
- Scotton, A., *Alla donna italiana intorno le cose d'Italia* (Venice: Merlo, 1863).
- Serristori, L., 'Dell'attuale condizione dell'industria in Italia', *Annali universali di statistica*, 85 (1845), 9-19.
- Sieyès, E.J., *Qu'est-ce que le Tiers-État?* (Paris: [n. pub.], 1789).
- *Observations sur le rapport du Comité de constitution concernant la nouvelle organisation de la France* (Versailles: Baudouin, 1789).
- Sperino, C., *Sifilizzazione nell'uomo* ([n.p.]: Favale, 1851).
- Stella, L., 'Alcune considerazioni sulla minore responsabilità penale della donna', *Archivio Giuridico*, 4 (1869), 76-83.
- Tarabotti, A., *L'Inferno monacale di Arcangela Tarabotti*, ed. by F. Medioli (Turin: Rosenberg and Sellier, 1990).
- Tassoni, A.M., *La religione, dimostrata e difesa* (Naples: Società Editrice, 1854 [1805]).
- Tommaseo, N., *Dell'educazione. Osservazioni e saggi pratici* (Venice: Andruzzi, 1842).
- *Delle nuove speranze d'Italia, presentimenti da un'opera di Niccolò Tommaseo* (Florence: Le Monnier, 1848).
- *La donna: scritti varii* (Milan: Agnelli, 1872 [1868]).
- *Sull'educazione, desiderii* (Florence: Le Monnier, 1851 [1846]).
- Trivulzio di Belgioioso, C., 'Della presente condizione delle donne e del loro avvenire' [1860], in S. Bortone, ed., *Il 1848 a Milano e Venezia: con uno scritto sulla condizione della donna* (Milan: Feltrinelli, 1977), pp. 169-85.
- Tutini, C., *Dell'origine e fundazione de' seggi di Napoli, del tempo in che furono istituiti* (Naples: Gessari, 1754).
- Vanni, I., *I progressi della legislazione civile in Italia dopo la rivoluzione* (Perugia: Santucci, 1878).
- Vescia, A., 'Se l'autorizzazione maritale sia necessaria alla moglie il cui marito è inabilitato', *Archivio giuridico*, 38 (1887), 33-43.

- Vicat, B.P., *Vocabularium juris utriusque*, 2 vols ([n.p.]: Ex officina Bousquetiana, 1759).
- Voet, J., *Commentarius ad Pandectas* (Halae: Sumtibus Ioan. Ioach. Beyeri and Ioan. Iac. Curtii., 1776).
- Volpi, G.A., *Che non debbono ammettersi le donne allo studio delle scienze, e delle belle arti* ([n. p.]: [n. pub.], 1723).
- Von Zallinger, J.A., *Institutiones juris ecclesiastici, maxime privati, ordine Decretalium*, 5 vols (Augsburg: Sumtibus Matthaei Rieger, 1793), IV.
- Winspeare, B., *Del patto di Capuana e Nido, e de' suoi effetti. Dissertazione* (Naples: Trani, 1823).
- Wollstonecraft, M., *A Vindication of the Rights of Woman: With Strictures on Political and Moral Subjects* (New York: Matsell, 1833).
- Young, A., *Travels during the Years 1787, 1788 and 1789* (London: Richardson, 1792).
- Zecchini, P.I., *Di geniali della dialettica delle donne ridotta al suo vero principio* (Bologna: S. Tommaso D'Aquino, 1771).

Secondary sources

- Ago, R., *Economia barocca: mercato e istituzioni nella Roma del Seicento* (Rome: Donzelli, 1998).
- ‘Ruoli familiari e statuto giuridico’, *Quaderni Storici*, 88 (1995), 111-33.
- Agostinelli, C., “*Per me sola*”. *Biografia intellettuale e scrittura privata di Costanza Monti Perticari* (Rome: Carocci, 2006).
- Aimerito, F., *La codificazione della procedura civile nel Regno di Sardegna* (Milan: Giuffrè, 2008).
- Alessi, G., ‘Il gioco degli scambi: seduzione e risarcimento nella casistica cattolica del XVI e XVII secolo’, *Quaderni storici*, 75 (1990), 805-31.
- ‘Stupro non violento e matrimonio riparatore. Le inquiete peregrinazioni dogmatiche della seduzione’, in Seidel Menchi and Quagliani, eds, *I tribunali del matrimonio*, pp. 609-40.
- *Processo per seduzione: piacere e castigo nella Toscana leopoldina* (Catania: [n. pub.], 1988).

- Alessi, M.L., *Una giardiniera del Risorgimento italiano: Bianca Milesi* (Genoa: Streglio, 1906).
- Anderson, B.R., *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).
- Aquarone, A., 'Aspetti legislativi della Restaurazione in Toscana', *Rassegna storica del Risorgimento: organo della Società Nazionale per la Storia del Risorgimento Italiano*, 43 (1956), 3-34.
- *L'unificazione legislativa e i codici del 1865* (Milan: Giuffrè, 1960).
- 'La restaurazione nello Stato Pontificio e i suoi indirizzi legislativi', *Archivio della Società romana di storia patria*, 78 (1955), 119-88.
- M. D'Addio and G. Negri, eds, *Le Costituzioni italiane* (Milan: Edizioni di Comunità, 1958).
- Ara, A., *Lo statuto fondamentale dello Stato della Chiesa (14 marzo 1848). Contributo ad uno studio delle idee costituzionali nello Stato pontificio nel periodo delle riforme di Pio IX* (Milan: Giuffrè, 1966).
- Ariès, P., *L'Enfant et la vie familiale sous l'Ancien Régime* (Paris: Plon, 1960).
- *Padri e figli nell'Europa medievale e moderna* (Bari: Laterza, 1968).
- *Western Attitudes toward Death: From the Middle Ages to the Present* (London: Marion Boyars, 1994).
- Arrivo, G., *Seduzioni, promesse, matrimoni. Il processo per stupro nella Toscana del Settecento* (Rome: Edizioni di Storia e Letteratura, 2006).
- Ascenzi, A., *Il Plutarco delle donne: repertorio della pubblicistica educativa e scolastica e della letteratura amena destinata al mondo femminile nell'Italia dell'Ottocento* (Macerata: EUM, 2009).
- Ascheri, M., 'Il *Consilium* dei giuristi medievali', in C. Casagrande, S. Vecchio and C. Crisciani, eds, *Consilium: teorie e pratiche del consigliare nella cultura medievale* (Florence: Edizioni del Galluzzo, 2004), pp. 243-58.
- *The Laws of Late Medieval Italy (1000-1500): Foundations for a European Legal System* (Leiden: Brill, 2013).
- Astuti, G., 'Gli ordinamenti giuridici degli Stati Sabaudi', in D. Gribaudo, ed., *Storia del Piemonte* (Turin: Casanova, 1960), pp. 487-562.

- ‘Il Code Napoléon in Italia e la sua influenza sui codici degli stati italiani successori’, *Accademia nazionale dei Lincei*, 179 (1973), 176-237.
- Badinter, E., *L’Amour en plus: histoire de l’amour maternel (XVIIe-XXe siècle)* (Paris: Flammarion, 1981).
- *L’Un est l’autre: des relations entre hommes et femmes* (Paris: Jacob, 1992 [1986]).
- ed., *Qu’Est-ce qu’une femme? Antoine Léonard Thomas, Diderot, Madame d’Épinay* (Paris: P.O.L, 1989).
- Baffioni Venturi, L., *Costanza Monti e Giulio Perticari: amore e morte tra Marche e Romagna all’inizio dell’Ottocento* (Ancona: peQuod, 2008).
- Balestracci, D., *Medioevo e Risorgimento: l’invenzione dell’identità italiana nell’Ottocento* (Bologna: Il Mulino, 2015).
- Banti, A.M., A. Chiavistelli, L. Mannori, M. Meriggi, eds, *Atlante culturale del Risorgimento: lessico del linguaggio politico dal Settecento all’unità* (Rome: Laterza, 2011).
- ‘I proprietari terrieri nell’Italia centro-settentrionale’, in P. Bevilacqua, ed., *Storia dell’agricoltura italiana in età contemporanea*, 3 vols (Venice: Marsilio, 1992), III.
- *Il Risorgimento italiano* (Rome: Laterza, 2004).
- and R. Bizzocchi, eds, *Immagini della nazione nell’Italia del Risorgimento* (Rome: Carocci, 2002).
- *L’onore della Nazione. Identità sessuali e violenza nel nazionalismo europeo dal XVIII secolo alla Grande Guerra* (Turin: Einaudi, 2005).
- *La nazione del risorgimento: parentela, santità e onore alle origini dell’Italia unita* (Turin: Einaudi, 2000).
- ‘Ricchezza e potere. Le dinamiche patrimoniali nella società lucchese del XIX secolo’, *Quaderni Storici*, 50 (1982), 629-61.
- and P. Ginsborg, eds, *Storia d’Italia. Annali 22. Il Risorgimento* (Turin: Einaudi, 2007).
- *Sublime madre nostra: la nazione italiana dal Risorgimento al fascismo* (Rome: Laterza, 2011).
- *Terra e denaro: una borghesia padana dell’Ottocento* (Venice: Marsilio, 1989).
- Baranski, Z.G., and S.W. Vinall, eds, *Women and Italy: Essays on Gender, Culture and*

- History* (Houndmills; London: Macmillan, 1991).
- Barbagli, M., ed., *Famiglia e mutamento sociale* (Bologna: Il Mulino, 1977).
- *Sotto lo stesso tetto. Mutamenti della famiglia in Italia dal XV al XX secolo* (Bologna: Il Mulino, 1984).
- and D.I. Kertzer, eds, *Storia della famiglia italiana, 1750-1950* (Bologna: Il Mulino, 1992).
- Barbiera, R., *Figure e figurine del secolo che muore: con notizie inedite d'archivii segreti* (Milan: Treves, 1899).
- *Il salotto della Contessa Maffei* (Florence: Salani, 1922).
- *Il salotto della Contessa Maffei e Camillo Cavour: con notizie inedite, lettere d'illustri e ritratti* (Milan: Baldini and Castoldi, 1901).
- Baritono, R., 'Il pensiero politico delle donne', in A. Andreatta et al., eds, *Il pensiero politico. Idee. Teorie. Dottrine*, 4 vols (Turin: UTET, 1999), *Ottocento e Novecento*, III/II, pp. 153-70.
- ed., *Il sentimento delle libertà: la dichiarazione di Seneca Falls e il dibattito sui diritti delle donne negli Stati Uniti di metà Ottocento* (Turin: La Rosa, 2001).
- Bassi, A., *Le eroine del Risorgimento: amore e politica al femminile* (Montichiari: Zanetti, 1996).
- Battaglia, S., *Grande dizionario della lingua italiana*, 21 vols (Turin: UTET, 1961-2002).
- Beales, D.E.D., and E.F. Biagini, *The Risorgimento and the Unification of Italy* (London: Longman, 2002).
- Beer, M, C. Klapisch-Zuber and De Giorgio, eds, *Storia del matrimonio* (Rome: Laterza, 1996).
- Bellabarba, M., 'I processi per adulterio nell'Archivio Diocesano Tridentino (XVII-XVIII secolo)', in Seidel Menchi and Quagliani, eds, *Trasgressioni: Seduzione, Concubinato, Adulterio, Bigamia (XIV-XVIII Secolo)*, pp. 185-227.
- Bellettini, A., 'La popolazione italiana dall'inizio dell'era volgare ai giorni nostri. Valutazioni e tendenze', in R. Romano, and C. Vivanti, eds, *Storia d'Italia*, 6 vols (Turin: Einaudi, 1973), V, 'I documenti', I, pp. 489-532.
- 'Les Remariages dans la ville et dans la campagne de Bologne au dix-neuvième siècle', in Dupâquier et al., *Marriage and Remarriage in Populations of the Past*,

pp. 259-72

- Bellomo, M., *La condizione giuridica della donna in Italia. Vicende antiche e moderne* (Rome: Il Cigno, 1996 [1970]).
- ‘Dote (diritto intermedio)’, *Enciclopedia del diritto*, IV, pp. 8-32.
- *Ricerche sui rapporti patrimoniali tra coniugi* (Milan: Giuffrè, 1960).
- *Società e istituzioni in Italia tra medioevo ed età moderna* (Catania: Giannotta, 1977).
- *The Common Legal Past of Europe: 1000-1800* (Washington: The Catholic University of America press, 1995).
- Berkner, L.K., and F.F. Mendels, ‘Sistemi di eredità, struttura familiare e modelli demografici in Europa (1700-1900)’, in Barbagli, ed., *Famiglia e mutamento sociale*, pp. 216-34.
- Bernal Palacios, A., ‘La condición de la mujer en sancto Tomàs de Aquino’, *Escritos del Vedat*, 4 (1974), 285-355.
- Bertelli, S, and M. Centanni, eds, *Il gesto nel rito e nel cerimoniale dal mondo antico ad oggi* (Florence: Ponte alle Grazie, 1995)
- Bertolo, B., *Donne del Risorgimento. Le eroine invisibili dell’Unità d’Italia* (Rome: Ananke, 2011).
- Bertolotti, C., ed., *La repubblica, la scienza, l’uguaglianza: una famiglia del Risorgimento tra mazzinanesimo ed emancipazionismo* (Milan: FrancoAngeli, 2012).
- Bertoni Jovine, D., *I periodici popolari del Risorgimento* (Milan: Feltrinelli, 1959).
- Besta, E., *La famiglia nella storia del diritto italiano* (Milan: Giuffrè, 1962)
- *Le persone nella storia del diritto italiano* (Padova: CEDAM, 1931).
- Betti, E., *Teoria generale della interpretazione*, 2 vols (Milan: Giuffrè, 1955), II.
- Biagioli, G., ‘Patrimoni e congiuntura: crescita, crisi e ripresa di una famiglia nobile toscana fra Sette e Ottocento’, in E. Luttazzi Gregori et al., eds, *Ricerche di storia moderna. 2. Aziende e patrimoni di grandi famiglie (sec. XV-XIX)* (Pisa: Pacini, 1979), 297-377.
- Bigaran, M., ‘Progetti e dibattiti sul suffragio femminile: da Peruzzi a Giolitti’, *Rivista di storia contemporanea*, 1 (1985), 50-82.
- Bizzocchi, R., ‘Una nuova morale per la donna e la famiglia’, in Banti and Ginsborg, eds, *Storia d’Italia. Annali 22. Il Risorgimento*, pp. 69-96.

- Black, C.F., *Church, Religion and Society in Early Modern Italy* (Basingstoke: Palgrave Macmillan, 2004).
- Bock, G., *Le donne nella storia europea. Dal Medioevo ai giorni nostri* (Rome: Laterza, 2001).
- Bonacchi, G., and A. Groppi, *Il dilemma della cittadinanza: diritti e doveri delle donne* (Rome: Laterza, 1993).
- Bonacchi, G., *Legge e peccato. Anime, corpi, giustizia alla corte dei papi* (Rome and Bari: Laterza, 1995).
- Boneschi, M., *La donna segreta: storia di Metilde Viscontini Dembowski* (Venice: Marsilio, 2010).
- Boureau, A., 'L'imene e l'ulivo. La verginità femminile nel discorso della Chiesa nel XIII secolo', *Quaderni storici*, 25 (1990), 791-803.
- Boureau, A., *The Lord's First Night: The Myth of the Droit de Cuissage* (Chicago: University of Chicago Press, 1998).
- Branca, G., 'Adulterio (diritto antico)', *Enciclopedia del diritto*, I, pp. 620-21.
- Brandileone, F., *Saggi sulla storia della celebrazione del matrimonio in Italia* (Milan: Hoepli, 1906).
- 'Studi preliminari sullo svolgimento dei rapporti patrimoniali fra coniugi in Italia', *Archivio giuridico*, 67 (1901), 201-81.
- Bravo, A., M. Pelaja, A. Pescarolo and L. Scaraffia, eds, *Storia sociale delle donne nell'Italia contemporanea* (Rome: Laterza, 2001).
- Breschi, M., A. Fornasin, M. Manfredini, and M. Zacchigna, 'Family Composition and Remarriage in Pre-Transitional Italy: A Comparative Study', *European Journal of Population*, 25/3 (2009), 277-96.
- *La popolazione della Toscana dal 1640 al 1940. Un'ipotesi di ricostruzione* (Florence: Dipartimento Statistico, 1990)
- Bronzuoli, D., *Matrimoni e patrimoni. La dote di Anna Bonaccorsi e la strategia imprenditoriale di Bettino Ricasoli* (Florence: Polistampa, 2013).
- Brooks, P., *Troubling Confessions: Speaking Guilt in Law and Literature* (Chicago: University of Chicago Press, 2000).
- Brown, J.C., and R.C. Davis, eds, *Gender and Society in Renaissance Italy* (London:

- Longman, 1998).
- Brundage, J.A., *Law, Sex and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987).
- Brundin, A., and M. Treherne, eds, *Forms of Faith in Sixteenth-Century Italy* (Aldershot: Ashgate, 2009).
- Bruni, E., P. Foglia and M. Messina, eds, *La donna in Italia: 1848-1914: unite per unire* (Cinisello Balsamo: Silvana, 2011).
- Bruni, F., *Italia: vita e avventure di un'idea* (Bologna: Il Mulino, 2010).
- Burguière, A., and F. Lebrun, 'The One Hundred and One Families of Europe', in A. Burguière et al., eds, *A History of the Family*, 2 vols (Cambridge: Polity Press, 1996), II, pp. 11-94.
- Buttafuoco, A., 'Apolidi. Suffragismo femminile e istituzioni politiche dall'unità al fascismo', in *Cittadine: La donna e la costituzione*, Atti del Convegno di studi promosso dall'Associazione degli Ex Parlamentari della Repubblica. Rome, 22-23 March 1988 (Rome: Camera dei deputati, 1989), pp. 5-53.
- 'La causa delle donne. Cittadinanza e genere nel triennio "giacobino" italiano', in A. Buttafuoco, ed., *Modi di essere: studi, riflessioni, interventi sulla cultura e la politica delle donne in onore di Elvira Badaracco* (Bologna: EM, 1991), pp. 79-106.
- 'Straniere in patria. Temi e momenti dell'emancipazione femminile italiana dalle Repubbliche giacobine al fascismo', in A.M. Crispino, ed., *Esperienza storica femminile nell'età moderna e contemporanea: Atti del seminario*, 2 vols (Rome: Unione donne italiane circolo "La Goccia", 1988), II, pp. 91-124.
- Cafagna, L., 'The Industrial Revolution in Italy, 1830-1914', in C. Cipolla, ed., *The Fontana Economic History of Europe* (London: Collins, 1971), pp. 279-328.
- Calabrese, R., ed., *Dissonanze. Aspetti di cultura delle donne* (Palermo: La Palma, 1990).
- Calanca, D., *Storia della famiglia italiana: ruoli e passioni nel XX Secolo* (Pesaro: Metauro, 2005).
- Calasso, F., *Medio Evo del diritto* (Milan: Giuffrè, 1954).
- Calvi, G., and I. Chabot, eds, *Le ricchezze delle donne: diritti patrimoniali e poteri familiari in Italia* (Turin: Rosenberg and Sellier, 1998).
- 'Reconstructing the Family: Widowhood and Remarriage in Tuscany in the Early

- Modern Period', in Dean and Lowe, eds, *Marriage in Italy, 1300-1650*, pp. 275-96.
- Candeloro, G., *Storia dell'Italia moderna* (Milan: Feltrinelli, 1961).
- Cantarella, E., 'Homicides of Honor: The Development of Italian Adultery Law over Two Millennia', in Kertzer and Saller, eds, *The Family in Italy from Antiquity to the Present*, pp. 229-44.
- Cappiello, A.A., ed., *Donne e diritto. Due secoli di legislazione 1796-1986* (Rome: Commissione nazionale Pari Opportunità, Presidenza del Consiglio dei Ministri, 1998).
- Caravale, M., and A. Caracciolo, *Lo Stato Pontificio da Martino V a Pio IX* (Turin: Utet, 1978).
- Carrarini, R., and M. Giordano, eds, *Bibliografia dei periodici femminili lombardi (1786-1945)* (Milan: Editrice Bibliografica, 1993).
- Casanova, C., *La famiglia italiana in età moderna: ricerche e modelli* (Rome: Carocci, 2000).
- Cavallera, H.A., *Storia dell'idea di famiglia in Italia: dagli inizi dell'Ottocento alla fine della monarchia* (Brescia: La scuola, 2003).
- Cavallo, S., and L. Warner, eds, *Widowhood in Medieval and Early Modern Europe* (Harlow: Longman, 1999).
- Cavanna, A., 'Il codice penale napoleonico. Qualche considerazione generalissima', in Vinciguerra, ed., *Codice dei delitti e delle pene per Regno d'Italia (1811)*, pp. XI-XXII.
- *Storia del diritto moderno in Europa*, 2 vols (Milan: Giuffrè, 1979).
- Cavazza, M., *Women's Dialectics, or the Thinking Uterus*, in L. Daston and G. Pomata, eds, *The Faces of Nature in Enlightenment Europe* (Berlin: BWV, 2003), pp. 237-57.
- Cavina, M., *Il padre spodestato: l'autorità paterna dall'antichità a oggi* (Rome: Laterza, 2007).
- *Nozze di sangue: storia della violenza coniugale* (Rome: Laterza, 2011).
- Cattaneo, M.A., 'L'autoritarismo penale napoleonico', in Vinciguerra, ed., *Codice dei delitti e delle pene per Regno d'Italia (1811)*, pp. 23-32.
- Cazzetta, G., *Praesumitur seducta. Onestà e consenso femminile nella cultura moderna* (Milan: Giuffrè, 1999).

- Cecchi, D., *L'amministrazione pontificia nella prima restaurazione (1800-1809)* (Macerata: Tipografia Maceratese, 1975).
- *L'amministrazione pontificia nella seconda restaurazione (1814-1823)* (Macerata: Tipografia Maceratese, 1978).
- Cepeda Fuentes, M., *Sorelle d'Italia. Le donne che hanno fatto il Risorgimento* (Turin: Blu Edizioni, 2011).
- Ceria, L., *Vita di una moglie: Teresa Confalonieri* (Milan: Baldini and Castoldi, 1935).
- Chabot, I, and M. Fornasari, *L'economia della carità: le doti del Monte di pietà di Bologna (secoli XVI-XX)* (Bologna: Il Mulino, 1997).
- 'Seconde nozze e identità materna nella Firenze del tardo medioevo', in S. Seidel Menchi, A. Jacobson Schutte, and T. Kuehn, eds, *Tempi e spazi di vita femminile tra medioevo ed età moderna* (Bologna: Il Mulino, 1999), pp. 493-523.
- Chojnacki, S., 'Dowries and Kinsmen in Early Renaissance Venice', *The Journal of Interdisciplinary History*, 5/4 (Spring, 1975), 571-600.
- 'Il divorzio di Cateruzza: rappresentazione femminile ed esito processuale (Venezia 1465)', in Seidel Menchi and Quagliani, eds, *Coniugi nemici*, pp. 371-416.
- *Women and Men in Renaissance Venice* (Baltimore: Johns Hopkins University Press, 2000).
- Clark, L.L., *Women and Achievement in Nineteenth-Century Europe* (Cambridge: Cambridge University Press, 2008).
- Cohen, D., 'The Augustan Law on Adultery: The Social and Cultural Context', in Kertzer and Saller, eds, *The Family in Italy from Antiquity to the Present*, pp. 109-26.
- Cohn, S.K., *Death and Property in Siena: 1205-1800: Strategies for the Afterlife* (Baltimore; London: The Johns Hopkins University Press, 1988).
- Colapietra, R., 'La legislazione penale a Roma verso il 1830', *Rassegna di politica e di storia*, 12 (1966), 124-27.
- Colliva, P., *Il cardinale Albornoz, lo Stato della Chiesa, Le «Constitutiones Aegidianae» (1353-1357)* (Bologna: Publicaciones del Real Colegio de Espana, 1977).
- Comandini, A., *L'Italia nei cento anni del secolo XIX* (Milan: Vallardi, 1918).
- Conti Odorisio, G., C. Giorcelli and G. Monsagrati, eds, *Cristina di Belgiojoso: politica e cultura nell'Europa dell'Ottocento* (Casoria: Loffredo, 2010).

- ed., *Salvatore Morelli (1824-1880): emancipazionismo e democrazia nell'Ottocento europeo. Atti del Convegno Internazionale di studi su Salvatore Morelli - Roma-Cassino - 1990* (Naples: Edizioni Scientifiche Italiane, 1992).
- *Storia dell'idea femminista in Italia* (Turin: ERI, 1980).
- Corbett, P.E., *The Roman Law of Marriage* (Oxford: Clarendon Press, 1930).
- Corradi, M., “‘Un esercito femminile’: educazione e nation-building nell’Italia del secondo Ottocento’, *Chronica Mundi*, 13 (2018), forthcoming.
- Corsini, C.A., ‘Why is Remarriage a Male Affair? Some Evidence from Tuscan Villages during the Eighteenth Century’, in Dupâquier et al., *Marriage and Remarriage*, pp. 385-95.
- Cortellazzo, M., and P. Zolli, *Dizionario etimologico della lingua italiana*, 5 vols (Bologna: Zanichelli, 1979-1988).
- Cortese, E., *Appunti di storia giuridica sarda* (Milan: Giuffrè, 1964).
- *Le grandi linee della storia giuridica medievale* (Rome: Il cigno Galileo Galilei, 2001)
- *Il Rinascimento giuridico medievale* (Rome: Bulzoni, 1992).
- ‘Per la storia del mundio in Italia’, *Rivista italiana per le scienze giuridiche*, 3/9-10 (1955-56), 323-474.
- Cortese, N., *Costituenti e costituzioni Italiane del 1848-49* (Naples: Libreria Scientifica Italiana, 1951).
- Costa, P., *Cittadinanza* (Rome and Bari: Laterza, 2005).
- *Civitas. Storia della cittadinanza in Europa*, 4 vols (Rome and Bari: Laterza, 2002), II.
- and D. Zolo, eds, *The Rule of Law History, Theory and Criticism* (Dordrecht: Springer, 2007).
- Covato, C., ‘Educare bambine dell’Ottocento’, in Ulivieri, ed., *Le bambine nella storia dell'educazione*, pp. 215-46.
- ‘Educata a non istruirsi: un’introduzione al problema’, in C. Covato and M.C. Leuzzi, eds, *E l’uomo educò la donna* (Rome: Editori riuniti, 1989), pp. 25-45.
- ‘Istruzione femminile e metamorfosi dell’identità in Italia fra Ottocento e Novecento’, in Sanson and Lucioli, eds, *Conduct Literature for and about Women in Italy, 1470-1900*, pp. 283-99.

- *Sapere e pregiudizio: l'educazione delle donne fra '700 e '800* (Rome: Archivio Guido Izzi, 1998).
- Cox, V., 'The Single Self: Feminist Thought and the Marriage Market in Early-Modern Venice', *Renaissance Quarterly*, 48/3 (1995), 513-81.
- Cozzi, G., *La società veneta e il suo diritto: saggi su questioni matrimoniali, giustizia penale, politica del diritto, sopravvivenza del diritto veneto nell'Ottocento* (Venice: Marsilio, 2000).
- Crabb, A., *The Strozzi of Florence: Widowhood and Family Solidarity in the Renaissance* (Ann Arbor: University of Michigan Press, 2000).
- Crainz, G., 'La cascina padana. Ragioni funzionali e svolgimenti', in Bevilacqua, ed., *Storia dell'agricoltura italiana in età contemporanea*, III, pp. 37-76.
- *Padania: il mondo dei braccianti dall'Ottocento alla fuga dalle campagne* (Rome: Donzelli, 1994).
- Crescenzi, V., 'L'autorizzazione maritale e il problema storico della capacità della donna coniugata di disporre dei propri beni', in F.L. Pacheco Caballero, ed., *Mujeres y derecho. Una perspectiva histórico-jurídica. Encuentro de historiadores del derecho. Actas* (Barcelona: Associació Catalana d'Història del Dret, 2015), pp. 127-85.
- 'Problemi dell'interpretatio nel diritto comune classico', in A.I. Ferreiròs, ed., *El Dret Comú i Catalunya, Actes del II Simposi Internacional, Barcelona, 31 maig 1 juny del 1991* (Barcelona: [n. pub.], 1992), pp. 167-206.
- 'Per una semantica della famiglia (ovvero: di cosa si parla, quando si parla di famiglia?)', in A. Bixio and G. Crifò, eds, *Il giurista e il diritto: studi per Federico Spantigati* (Milan: FrancoAngeli, 2010), pp. 3-31.
- Cupillari, A., *A Biography of Maria Gaetana Agnesi, an Eighteenth-Century Woman Mathematician* (Lewiston: The Edwin Mellen Press, 2007).
- D'Amelia, M., 'La conquista di una dote. Regole del gioco e scambi femminili alla Confraternita dell'Annunziata (secc. XVII-XVIII)', in Ferrante, Palazzi, Pomata, eds, *Ragnatele di rapporti*, pp. 305-43.
- D'Antonio, M., *Ricerca sul diritto di famiglia* (Rome: Servizio Studi, Legislazione e Inchieste Parlamentari, 1969).
- D'Avack, P., 'La *copula perfecta* e la *consummatio coniugi* nelle fonti e nella dottrina

- canonistica classica', *Rivista italiana per le scienze giuridiche*, 86/3 (1949), 163-250.
- Da Mosto, A., 'Il navigatore Alvise da Mosto e la sua famiglia', *Archivio veneto*, 2 (1927), 168-259.
- Dalton, S., *Engendering the Republic of Letters: Reconnecting Public and Private Spheres in Eighteenth-Century Europe* (Montreal; London: McGill-Queen's University Press, 2003).
- Danelon Vasoli, N., *Il plebiscito in Toscana nel 1860* (Florence: Olschki, 1968).
- Daniels, E.A., *Jessie White Mario: Risorgimento Revolutionary* (Athens: Ohio University Press, 1972).
- Daston, L., and E. Lunbeck, eds, *Histories of Scientific Observation* (Chicago: University of Chicago Press, 2011).
- and G. Pomata, eds, *The Faces of Nature in Enlightenment Europe* (Berlin: BWV, 2003).
- Daumas, M., *Adulteri e cornuti: storia della sessualità maschile tra Medioevo e modernità* (Bari: Dedalo, 2008).
- Davidson, I., *The French Revolution: From Enlightenment to Tyranny* (London: Profile Books, 2016).
- Davidson, N., 'Theology, Nature and the Law: Sexual Sin and Sexual Crime in Italy from the Fourteenth to the Seventeenth Century', in Dean and Lowe, eds, *Crime, Society and the Law in Renaissance Italy*, pp. 74-98.
- Davis, J.C., *A Venetian Family and Its Fortune, 1500-1900: The Donà and the Conservation of Their Wealth* (Philadelphia: American Philosophical Society, 1975).
- *The Decline of the Venetian Nobility as a Ruling Class* (Baltimore: Johns Hopkins Press, 1962).
- Davis, J.A., and P. Ginsborg, *Society and Politics in the Age of the Risorgimento: Essays in Honour of Denis Mack Smith* (Cambridge: Cambridge University Press, 2002).
- De Bernardi, A., 'Città e campagna nella storia contemporanea', in R. Romano, ed., *Storia dell'economia italiana. L'età contemporanea: un paese nuovo* (Turin: Einaudi, 1991), III, pp. 252-78.
- De Giorgio, M., 'Raccontare un matrimonio moderno', in Beer, Klapisch-Zuber and De

- Giorgio, eds, *Storia del matrimonio*, pp. 307-90.
- De Maddalena, A., E. Rotelli and G. Barbarisi, eds, *Economia, istituzioni, cultura in Lombardia nell'età di Maria Teresa: convegni per il secondo centenario di Maria Teresa d'Austria*, 3 vols (Bologna: Il Mulino, 1982).
- De Marchi, E., *Dai campi alle filande: famiglia, matrimonio e lavoro nella "pianura dell'Olona" 1750-1850* (Milan: FrancoAngeli, 2009).
- de Mari, E., 'Le Droit intermédiaire. Posture juridique, imposture politique et vacuité d'une convention', *La Révolution française, Rupture(s) en Révolution*, 5 (2011), <<http://lrf.revues.org/340>> [accessed 22 September 2017].
- De Vigili, D., 'Il precettore e il suo bambino', *Aut Aut*, 191-192 (1982), 49-68
- Dean, T., 'A Regional Cluster? Italian Secular Laws on Abduction, Forced and Clandestine Marriage (Fourteenth and Fifteenth Centuries)', in M. Korpiola, ed., *Regional Variations in Matrimonial Law and Custom in Europe, 1150-1600*, (Leiden: Brill, 2011), pp. 147-59.
- *Crime and Justice in Late Medieval Italy* (Cambridge: Cambridge University Press, 2007).
- and K.J.P. Lowe, eds, *Crime, Society and the Law in Renaissance Italy* (Cambridge: Cambridge University Press, 1994).
- 'Domestic Violence in Late-Medieval Bologna', *Renaissance Studies*, 18/4 (December 2004), 527-43.
- 'Fathers and Daughters: Marriage Laws and Marriage Disputes in Bologna and Italy, 1200-1500', in Dean and Lowe, eds, *Crime, Society and the Law in Renaissance Italy*, pp. 85-106.
- 'Marriage and Mutilation: Vendetta in Late Medieval Italy', *Past and Present*, 157 (1997), 3-36.
- and K.J.P. Lowe, eds, *Marriage in Italy, 1300-1650* (Cambridge: Cambridge University Press, 1998).
- 'Wealth Distribution and Litigation in the Medieval Italian Countryside: Castel San Pietro, Bologna, 1385', *Continuity and Change*, 17/3 (2002), 333-50.
- Del Panta, L., *Evoluzione demografica e popolamento nell'Italia dell'Ottocento: 1796-1914* (Bologna: CLUEB, 1984).

- et al., *La popolazione italiana dal Medioevo a oggi* (Rome: Laterza, 1996).
- *Le epidemie nella storia demografica italiana (secoli XIV-XIX)* (Turin: Loescher, 1980).
- Del Re, N., *La Curia romana. Lineamenti storico-giuridici* (Città del Vaticano: Libreria Editrice Vaticana, 1998).
- Delille, G., *Agricoltura e demografia nel Regno di Napoli nei secoli XVIII e XIX* (Naples: Guida, 1977).
- ‘Strategie di alleanza e demografia del matrimonio’, in Beer, Klapisch-Zuber and De Giorgio, eds, *Storia del matrimonio*, pp. 283-306.
- ‘Un esempio di assistenza privata: I monti di maritaggio del Regno di Napoli (secoli XVI–XVIII)’, in G. Politi, M. Rosa and F. Della Peruta, eds, *Timore e carità: i poveri nell’Italia moderna* (Cremona: Libreria del Convegno, 1982), pp. 227-81.
- Della Peruta, F., *Politica e società nell’Italia dell’Ottocento: problemi, vicende e personaggi* (Milan: FrancoAngeli, 1999).
- Delmedico, S., ‘Alimenti e dote alla periferia dello Stato Pontificio: la famiglia Pucci’, *The Italianist*, 37/1 (2017), 50-68.
- *Breve studio sulla condizione giuridica della donna nello Stato Pontificio dell’Ottocento* ([n.p.]: Lulu.com, 2014).
- ‘The Dowry in Mid-Nineteenth-Century Papal States: The Case of Umbellina Livi’, in E. Lung, G. Valera, and C. Heath, eds, *Gender and Generations: Selected Papers of the Annual Conference of the International Society for Cultural History (ISCH) Trieste, 2016* (2018), forthcoming.
- Delumeau, J., *Sin and Fear: The Emergence of a Western Guilt Culture, XIII-XVIII Centuries* (New York: St. Martin’s Press, 1990).
- Dezza, E., and P. Caroni, eds, *L’ABGB e la codificazione asburgica in Italia e in Europa: atti del Convegno internazionale, Pavia, 11-12 ottobre 2002* (Padua: CEDAM, 2006).
- *Lezioni di storia della codificazione civile: il Code civil (1804) e l’Allgemeines Bürgerliches Gesetzbuch (ABGB, 1812)* (Turin: Giappichelli, 1998).
- Di Lorenzo, A., *Enrichetta di Lorenzo: storia di una famiglia* (Frattaminore: Del Prete, 2004).

- Di Renzo Villata, M.G., ed., *Family Law and Society in Europe from the Middle Ages to the Contemporary Era* (Cham: Springer International Publishing, 2016).
- Di Simone, M.R., *Istituzioni e fonti normative in Italia dall'antico regime al fascismo* (Turin: Giappichelli, 2007).
- 'La condizione giuridica della donna nell'ABGB', *Historia et ius*, 9 (2016), paper 3, 1-29.
- 'La donna nella storia del diritto austriaco: tradizione e innovazione tra medioevo e Settecento', in A.C. Amato Mangiameli, ed., *Donne tra storia e politica* (Turin: Giappichelli, 2012), pp. 24-43.
- 'Le discussioni sui diritti delle donne per il Codice civile unitario', in S. Borsacchi and G.S. Pene Vidari, eds, *Avvocati protagonisti e rinnovatori del primo diritto unitario* (Bologna: Il Mulino, 2014), pp. 95-121.
- Di Simplicio, O., *Peccato penitenza perdono. Siena 1575-1800. La formazione della coscienza nell'Italia moderna* (Milan: FrancoAngeli, 1994).
- Dickie, J., 'A World at War: The Italian Army and the Brigandage 1860-1870', *History Workshop Journal*, 33 (1992), 1-24.
- Donahue, C., *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007).
- Doni, E., et al., *Donne del Risorgimento* (Bologna: Il Mulino, 2011).
- 'Rose bianche per un soldato. Colomba Antonietti', in Doni et al., *Donne del Risorgimento*, pp. 25-33.
- Drago, A., *Donne e amori del Risorgimento* (Milan: Palazzi, 1960).
- Duby, G., and M. Perrot, eds, *Storia delle donne. L'Ottocento* (Rome and Bari: Laterza, 1991).
- Dupâquier, J., et al., *Marriage and Remarriage in Populations of the Past* (London: Academic Press, 1981).
- Enciclopedia del diritto*, 16 vols (Milan: Giuffrè, 1958-1965).
- Ercole, F., 'L'istituto dotale nella pratica e nella legislazione statutaria dell'Italia superiore', *Rivista Italiana di Scienze Giuridiche*, 45 (1909), 191-302.
- 'L'istituto dotale nella pratica e nella legislazione statutaria dell'Italia superiore', *Rivista italiana per le scienze giuridiche*, 46 (1910), 167-257.

- ‘Vicende storiche della dote romana nella pratica medievale dell’Italia superiore’, *Archivio giuridico*, 81 (1908), 34-148.
- Esmein, A., *Le Mariage en droit canonique*, 2 vols (Paris: Larose et Forcel, 1891).
- Evans, R.J., *The Feminists: Women’s Emancipation Movements in Europe, America and Australasia, 1840-1920* (London: Routledge, 2013).
- Fabbri, L., *Alleanza matrimoniale e patriziato nella Firenze del ’400: studio sulla famiglia Strozzi* (Florence: Olschki, 1991).
- Faoro, L., “‘Nefandum dogma’”. Seduzione e promessa di matrimonio in una comparsa trentina del XVII secolo’, in Seidel Menchi and Quagliani, eds, *Matrimoni in dubbio*, pp. 431-528.
- Farini, L.C., *Lo Stato romano dall’anno 1815 al 1850*, 4 vols (Florence: Le Monnier, 1853).
- Fayer, C., *La familia romana: aspetti giuridici ed antiquari*, 3 vols (Rome: "L’Erma" di Bretschneider, 1994).
- Fazio, I., ‘Famiglia, matrimonio, trasmissione della proprietà: ipotesi di lavoro a partire dal caso siciliano’, in B. Meloni, ed., *Famiglia meridionale senza familismo: strategie economiche, reti di relazione e parentela* (Catanzaro: Meridiana, 1997), pp. 3-24
- ‘La Signora dell’Oro. Carità femminile, potere e controllo sociale in una comunità siciliana tra Sette e Ottocento’, in Ferrante, Palazzi and Pomata, eds, *Ragnatele di rapporti*, pp. 80-98.
- ‘Valori economici e valori simbolici. Il declino della dote nell’Italia dell’Ottocento’, *Quaderni storici*, 78 (1992), 291-317.
- Feci, S., *Pesci fuor d’acqua: donne a Roma in età moderna* (Rome: Viella, 2004).
- Ferrante, L., ‘Patronesse e patroni in un’istituzione assistenziale femminile (Bologna sec. XVII)’, in Ferrante, Palazzi and Pomata, eds, *Ragnatele di rapporti*, pp. 59-79.
- M. Palazzi and G. Pomata, eds, *Ragnatele di rapporti: patronage e reti di relazione nella storia delle donne* (Turin: Rosenberg and Sellier, 1988).
- Filippini, N.M., ed., *Donne sulla scena pubblica: società e politica in Veneto tra Sette e Ottocento* (Milan: FrancoAngeli, 2006).
- ‘Donne sulla scena politica: dalle Municipalità del 1797 al Risorgimento’, in Filippini, ed., *Donne sulla scena pubblica*, pp. 81-137.
- and L. Gazzetta, eds, *L’altra metà del Risorgimento: volti e voci di patriote venete*

- (Sommacampagna: Cierre, 2011).
- Fioravanti, M., ed., *Lo Stato moderno in Europa. Istituzioni e diritto* (Rome and Bari: Laterza, 2002).
- Fioravanti, L., 'Un codice penale tra Restaurazione e suggestioni liberali. Il Regolamento Gregoriano del 1832', *Materiali per una storia della cultura giuridica*, 23 (1993), 105-27.
- Fioravanzo, M., 'Sull'autorizzazione maritale. Ricerche attorno alla condizione giuridica della donna nell'Italia unita', *Clio: rivista trimestrale di studi storici*, 30 (1994), 641-725.
- Fisher, K., 'Marriage and Companionate Ideals since 1750', in S. Toulalan and K. Fisher, eds, *The Routledge History of Sex and the Body: 1500 to the Present* (London: Routledge, 2013), pp. 328-48.
- Fleischer, M.P., "'Are Women Human?'" - The Debate of 1595 between Valens Acidalius and Simon Gediccus', *The Sixteenth Century Journal*, 12 (1981), 107-20.
- Formigini Santamaria, E., *L'istruzione popolare nello stato pontificio (1824-1870)* (Modena: Soc. Tipografia Modenese, 1909)
- *L'istruzione pubblica nel Ducato estense (1772-1860)* (Genoa: A.F. Formigini, 1912).
- Fosi, I., 'Da un tribunale all'altro: il divorzio fra Benedetta Pinelli e Girolamo Grimaldi, principe di Gerace (1609-1653)', in Seidel Menchi and Quaglioni, eds, *Coniugi nemici*, pp. 417-52.
- *La giustizia del papa. Sudditi e tribunali nello Stato Pontificio in età moderna* (Rome and Bari: Laterza, 2007).
- Franca Pieroni Bortolotti. *Sul movimento politico delle donne. Scritti inediti*, ed. by A. Buttafuoco (Rome: Utopia, 1987).
- Franchini, S., and S. Soldani, eds, *Donne e giornalismo. Percorsi e presenze di una storia di genere* (Milan: FrancoAngeli, 2004).
- *Editori, lettrici e stampa di moda: giornali di moda e di famiglia a Milano dal Corriere delle dame agli editori dell'Italia unita* (Milan: FrancoAngeli, 2002).
- *Élites ed educazione femminile nell'Italia dell'Ottocento: l'Istituto della SS. Annunziata di Firenze* (Florence: Olschki, 1993).

- Franciosi, G., *Clan gentilizio e strutture monogamiche: contributo alla storia della famiglia romana* (Naples: Jovene, 1980 [1974]).
- Fruci, G.L., ‘Alle origini del momento plebiscitario risorgimentale (1797-1870)’, in *Verso l’Unità: conferenze e laboratori didattici organizzati con la collaborazione della Domus Mazziniana: Pisa, ottobre-novembre 2010* (Ospedaletto: Pacini, 2011), pp. 43-56.
- ‘Cittadine senza cittadinanza. La mobilitazione femminile nei plebisciti del Risorgimento (1848-1870)’, *Genesis*, 5/2, (2006), 21-55.
- ‘Il sacramento dell’unità nazionale: linguaggi, iconografia e pratiche dei plebisciti risorgimentali (1848–70)’, in Banti and Ginsborg, eds, *Storia d’Italia. Annali 22. Il Risorgimento*, pp. 567-605.
- Fuchs, R.G., *Gender and Poverty in Nineteenth-Century Europe* (Cambridge: Cambridge University Press, 2005).
- Fugazza, M., ‘Il lungo cammino dei diritti’, in E. Bruni, P. Foglia and M. Messina, eds, *La donna in Italia: 1848-1914: unite per unire* (Cinisello Balsamo: Silvana, 2011), pp. 67-78
- and K. Rörig, eds, “*La prima donna d’Italia*”. *Cristina Trivulzio di Belgiojoso tra politica e giornalismo* (Milan: FrancoAngeli, 2010).
- Fumagalli, C., *Il diritto di fraterna nella giurisprudenza da Accursio alla codificazione* (Turin: Bocca, 1912).
- Galasso, G., ‘Il contesto storico: l’età del Codice’, *Il bicentenario del codice napoleonico: convegno. Roma 20 dicembre 2004. Atti dei convegni lincei*, 221 (2004), 9-18.
- Galeazzi, P., ed., *Magistrature e archivi giudiziari nelle Marche* (Ancona: Affinità elettive, 2009).
- Galeotti, G., ‘L’autorizzazione maritale nel primo codice civile unitario: un istituto “estraneo” alla tradizione italiana?’, *Dimensioni e problemi della ricerca storica*, 2 (2005), 155-82.
- *Storia del voto alle donne in Italia: alle radici del difficile rapporto tra donne e politica* (Rome: Biblink, 2006).
- Gardner, J.F., *Family and Familia in Roman Law and Life* (Oxford: Clarendon, 1998).
- Gastel Chiarelli, C., *Niente zucchero nel calamajo: lettere di Giuseppe Verdi a Clara Maffei* (Milan: Archinto, 2005).

- Gaudemet, J., 'L'Apport de la doctrine canonique aux droits occidentaux en matière de mariage', in S. Korta, H. Zapp, C.G. Furst and A. Weiss, *Ius canonicum in Oriente et Occidente* (Frankfurt: Peter Lang, 2003), pp. 167-95.
- *La Formation du droit canonique médiéval* (London: Variorum, 1980).
- *Le Droit canonique* (Paris: Fides, 1989).
- *Le Mariage en occident: les mœurs et le droit* (Paris: Cerf, 1987).
- *Sociétés et mariage* (Strasbourg: Cerdic, 1980)
- *Storia del diritto canonico: ecclesia et civitas* (Milan: San Paolo Edizioni, 1998).
- Garlati, L., 'Honour and Guilt. A Comparative Study on Regulations on Infanticide between the Nineteenth and Twentieth Century', in Di Renzo Villata, ed., *Family Law and Society in Europe from the Middle Ages to the Contemporary Era*, pp. 257-81.
- 'La famiglia tra passato e presente', in S. Patti and M.G. Cubeddu, eds, *Diritto della famiglia* (Milan: Giuffrè, 2011), pp. 1-48.
- Gavitt, P., *Gender, Honor, and Charity in Late Renaissance Florence* (Cambridge: Cambridge University Press, 2011).
- Ghisalberti, C., *Dall'antico regime al 1848: le origini costituzionali dell'Italia moderna* (Rome: Laterza, 1974).
- *Istituzione e società civile nell'età del Risorgimento* (Bari: Laterza, 2005).
- *Le costituzioni giacobine (1796-1799)* (Milan: Giuffrè, 1973).
- *Storia costituzionale d'Italia 1849-1948* (Bari: Laterza, 1974).
- *Unità nazionale e unificazione giuridica in Italia* (Rome: Editori Laterza, 1988).
- Gigli Marchetti, A., and N. Torcellan, *Donna lombarda 1860-1945* (Milan: Angeli, 1992).
- Gilmour, D., *The Pursuit of Italy: A History of a Land, Its Regions and Their Peoples* (London: Penguin, 2012).
- Goldthwaite, R.A., *Private Wealth in Renaissance Florence: A Study of Four Families* (Princeton: Princeton University Press, 1968).
- Goody, J., 'Dowry and the Rights of Women to Property', in C.M. Hann, ed., *Property Relations: Renewing the Anthropological Tradition* (Cambridge: Cambridge University Press, 1998), pp. 201-13.
- J. Thirsk and E.P. Thompson, eds, *Family and Inheritance - Rural Society in Western Europe, 1200-1800* (Cambridge: Cambridge University Press, 1979).

- *Production and Reproduction: A Comparative Study of the Domestic Domain* (Cambridge: Cambridge University Press, 1976).
- *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983).
- Gordley, J., ‘Myths of the French Civil Code’, *The American Journal of Comparative Law*, 42/3 (Summer, 1994), 459-505.
- Grandi, L., *Donna o cosa? I movimenti femminili in Europa negli ultimi due secoli* (Turin: Carra, 1991).
- Grazzini, S., *La marchesa Colombi e il femminismo “tormentoso e incerto”* (Florence: Centro editoriale toscano, 2006).
- Green, D.R., and A. Owens, *Family Welfare: Gender, Property, and Inheritance since the Seventeenth Century* (London: Praeger Publishers, 2004).
- Greenfield, K.R., *Economia e liberalismo nel Risorgimento: il movimento nazionale in Lombardia dal 1814 al 1848* (Bari: Laterza, 1964).
- Groppi, A., ed., *Il lavoro delle donne* (Rome: Laterza, 1996).
- ‘Una gestione collettiva di equilibri emozionali e materiali. La reclusione delle donne nella Roma dell’Ottocento’, in Ferrante, Palazzi, Pomata, eds, *Ragnatele di rapporti*, pp. 130-47.
- Grossi, P., *A History of European Law* (Chichester: Wiley-Blackwell, 2010).
- ‘Assolutismo giuridico e diritto privato nel secolo XIX’, *Rivista di storia del diritto italiano*, 64 (1991), 5-17.
- ‘Code Civil: una fonte nuovissima per la nuova civiltà giuridica’, *Atti dei Convegni Lincei*, 221 (2006), 19-42.
- ‘Per la storia della legislazione sabauda in Sardegna: il Censore dell’agricoltura’, *Annali della Facoltà Giuridica dell’Università di Macerata*, 26 (1963), 197-240.
- ‘Tradizione e modelli nella sistemazione post-unitaria della proprietà’, *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, 5-6 (1976-1977), 202-338.
- Grosso, M., and L. Rotondo, “‘Sempre tornerò a prendere cura del mio paese e a rivedere te’. Cristina Trivulzio di Belgiojoso’, in Doni et al., *Donne del Risorgimento*, pp. 65-94.
- Guerci, L., *La discussione sulla donna nell’Italia del Settecento: aspetti e problemi* (Turin:

- Tirrenia Stampatori, 1987).
- *La sposa obbediente: donna e matrimonio nella discussione dell'Italia del Settecento* (Turin: Tirrenia Stampatori, 1988).
- Guerra Medici, M.T., 'Diritto statutario e condizione della donna nella città medievale dei secc. XII-XIV', *Rivista di storia del diritto italiano*, 65 (1992), 319-36.
- 'Due secoli di storia dell'emancipazione femminile dalle leggi giacobine alla Costituzione repubblicana. Note e riflessioni in margine ad una recente pubblicazione', *Studi Senesi*, 102 (1990), 149-68.
- *La cittadinanza difficile* (Camerino: Università di Camerino, 2000).
- *Orientamenti civilistici e canonistici sulla condizione della donna* (Naples: Edizioni scientifiche italiane, 1996).
- Guidi, L., A. Russo, and M. Varriale, *Il Risorgimento invisibile. Patriote del Mezzogiorno d'Italia* (Naples: Comune di Napoli Edizioni, 2011).
- 'La "passione governata dalla virtù": benefattrici nella Napoli ottocentesca', in Ferrante, Palazzi and Pomata, eds, *Ragnatele di rapporti*, pp. 148-65.
- ed., *Scritture femminili e storia* (Naples: Cliopress, 2004).
- Guzzetti, L., 'Separations and Separated Couples in Fourteenth-Century Venice', in Dean and Lowe, eds, *Marriage in Italy, 1300-1650*, pp. 249-74.
- Habermas, J., *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press, 1996).
- Hacke, D., 'La promessa disattesa: il caso di Perina Gabrieli (Venezia 1620)', in Seidel Menchi and Quagliani, eds, *Matrimoni in dubbio*, pp. 395-413.
- Hallamore Caesar, A., 'Gender, Genre and Education. Writing about Conduct in Eighteenth-Century Venice', in Sanson and Luciola, eds, *Conduct Literature for and about Women in Italy, 1470-1900*, pp. 119-134.
- Halpérin, J.L., *L'Impossible Code Civil* (Paris: Presses universitaires de France, 1992).
- Hardman, J., *The French Revolution: The Fall of the Ancien Régime to the Thermidorian Reaction, 1785-1795* (London: Arnold, 1981).
- Herlihy, D., 'The Medieval Marriage Market', *Medieval and Renaissance Studies*, 6/1 (1976), 3-27.
- Hoffman, P., *La Femme dans la pensée des lumières* (Paris: Ophrys, 1977).

- Holthöfer, E., 'La 'cura sexus' dall'antichità al XIX secolo', in A. Arru, ed., *Soggetto e identità*, Rome: Biblink, 2009), pp. 225-310.
- Hosker, L., "Donne sole" in *Post-Unification Italy: The Works of Tommasina Guidi and Emilia Nevers* (unpublished PhD dissertation, University of Cambridge, 2015).
- Hufton, O.H., *The Prospect before Her: A History of Women in Western Europe* (London: HarperCollins, 1995).
- Irti, N., and F. Santoro-Passarelli, 'Consolidazioni e codificazioni delle leggi civili', *Atti Dei Convegni Lincei*, 106 (1994), 245-52.
- Isastia, A.M., *Storia di una famiglia del Risorgimento. Sarina, Giuseppe, Ernesto Nathan* (Turin: Università Popolare di Torino, 2010).
- Isnenghi, M., and E. Cecchinato, *Fare l'Italia: unità e disunità nel Risorgimento* (Turin: UTET, 2008).
- Jemolo, A.C., *Il matrimonio nel diritto canonico: dal Concilio di Trento al Codice del 1917* (Bologna: Il Mulino, 1993).
- Jones, V.R., 'Journalism, 1750-1850', in Panizza and Wood, eds, *A History of Women's Writing in Italy*, pp. 120-34.
- Kantorowicz, H., and W.W. Buckland, *Studies in the Glossators of the Roman Law: Newly Discovered Writings of the Twelfth Century* (Cambridge: CUP, 1938).
- Kaplan, M.A., ed., *The Marriage Bargain: Women and Dowries in European History* (New York: Haworth Press, 1985).
- Kelly-Gadol, J., 'The Social Relation of the Sexes: Methodological Implications of Women's History', *Signs* 1/4 (Summer, 1976), 809-23.
- Kelly-Gadol, J., *Women, History and Theory: The Essays of Joan Kelly* (Chicago; London: University of Chicago Press, 1984).
- Kelso, R., *Doctrine for the Lady of the Renaissance* (Urbana: University of Illinois Press, 1956).
- Kent, F.W., *Household and Lineage in Renaissance Florence: The Family Life of the Capponi, Ginori, and Rucellai* (Princeton: Princeton University Press, 1977)
- Kertzer, D.I., and R.P. Saller, *The Family in Italy: From Antiquity to the Present* (New Haven; London: Yale University Press, 1991).
- and M. Barbagli, eds, *The History of the European Family* (New Haven; London: Yale

- University Press, 2001-2003).
- and W. Sigle, ‘The Marriage of Female Foundlings in Nineteenth-Century Italy’, *Continuity and Change*, 13/2 (1998), 201-20.
- King, H., *Hippocrates’ Woman: Reading the Female Body in Ancient Greece* (London: Routledge, 1998).
- King, M., *Women of the Renaissance* (Chicago; London: University of Chicago Press, 1991).
- Kirshner, J., *Marriage, Dowry, and Citizenship in Late Medieval and Renaissance Italy* (Toronto: University of Toronto Press, 2015).
- ‘Materials for Gilded Cage: Non-Dotal Assets in Florence, 1300-1500’, in Kertzer and Saller, eds, *The Family in Italy from Antiquity to the Present*, pp. 184-207.
- ‘Pursuing Honor While Avoiding Sin: The ‘Monte Delle Doti’ of Florence’, *Quaderni di studi senesi*, 41 (1978), 1-82.
- Klapisch-Zuber, C., ‘Le Complexe de Griselda. Dot et dons de mariage au Quattrocento’, *Mélanges de l’Ecole française de Rome. Moyen-Age, Temps modernes*, 94/1 (1982), 7-43.
- *La famiglia e le donne nel Rinascimento a Firenze* (Rome: Laterza, 1988).
- *Women, Family, and Ritual in Renaissance Italy* (Chicago: University of Chicago Press, 1985).
- Klein, L.E., ‘Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure’, *Eighteenth-Century Studies*, 29/1, The Public and the Nation (Fall, 1995), 97-109.
- Kroha, L., *The Woman Writer in Late-Nineteenth-Century Italy: Gender and the Formation of Literary Identity* (Lewiston: Edwin Mellen Press, 1992).
- Kuehn, T., “‘As if Conceived Within a Legitimate Marriage’”. A Dispute Concerning Legitimation in Quattrocento Florence’, *American Journal of Legal History*, 29/4 (1985), 275-300
- *Family and Gender in Renaissance Italy, 1300-1600* (Cambridge: Cambridge University Press, 2017).
- ‘Household and Family in Ius Commune and Ius Proprium’, in M. Carlier and T. Soens, eds, *The Household in Late Medieval Cities: Italy and Northwestern Europe*

- Compared*, (Leuven: Garant, 2001), pp. 37-50
- *Law, Family and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991).
- Laingui, A., ‘Il diritto penale della rivoluzione francese e dell’Impero’, in Vinciguerra, ed., *Diritto penale dell’Ottocento: i codici preunitari e il codice Zanardelli*, pp. 49-52.
- Lamarra, A., and E. Federici, eds, *Nations, Traditions and Cross-Cultural Identities: Women’s Writing in English in a European Context* (Oxford; New York: Peter Lang, 2010).
- Lane, F.C., *Andrea Barbarigo: Merchant of Venice, 1418-1449* (Baltimore: Johns Hopkins, 1944).
- Laqueur, T., *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge; London: Harvard University Press, 1992)
- Laslett, P., ‘Family and Household as Work Group and Kin Group: Areas of Traditional Europe Compared’, in R. Wall, J. Robin and P. Laslett, eds, *Family Forms in Historic Europe* (Cambridge: Cambridge University Press, 1983), pp. 513-64.
- Lattes, A., ‘Le leggi civili e criminali di Carlo Felice pel Regno di Sardegna’, in C. Sole, ed., *La Sardegna di Carlo Felice e il problema della terra* (Cagliari: Editrice sarda Fossataro, 1967), pp. 403-509.
- Lenci, M., ‘The Battle over ‘Democracy’ in Italian Political Thought during the Revolutionary Triennio, 1796-1799’, in J. Oddens, E. Jacobs, M. Rutjes, eds, *The Political Culture of the Sister Republics, 1794-1806* (Amsterdam: Amsterdam University Press, 2015), pp. 97-106.
- Lerner, G., ‘Placing Women in History: A 1975 Perspective’, in B.A. Carroll, ed., *Liberating Women’s History: Theoretical and Critical Essays* (Urbana: University of Illinois, 1976), pp. 358-67.
- Levi D’Ancona, L., ‘Padri e figli nel Risorgimento’, in Banti and Ginsborg, eds, *Storia d’Italia. Annali 22. Il Risorgimento*, pp. 153-79.
- Lewis, D., *Jessie White Mario: An English Heroine in the Liberation of Italy* (Oxford: Eureka Press, 2006).
- Litchfield, R.B., ‘Caratteristiche demografiche delle famiglie patrizie fiorentine dal sedicesimo al diciannovesimo secolo’, in C.A. Corsini, ed., *Saggi di demografia storica* (Florence: Università di Firenze, 1969), pp. 17-34.

- Liva, A., *La gerarchia delle fonti di diritto nelle città dell'Italia settentrionale* (Milan: Giuffrè, 1976).
- Livi-Bacci, M., *A Concise History of World Population* (Cambridge, MA, and Oxford: Blackwell, 1992).
- *A History of Italian Fertility during the Last Two Centuries* (Princeton: Princeton University Press, 1977).
- ‘On the Frequency of Remarriage in Nineteenth Century Italy: Methods and Results’, in Dupâquier et al., *Marriage and Remarriage*, pp. 347-61
- Lyons, M., ‘I nuovi lettori nel XIX secolo; donne, fanciulli, operai’, in G. Cavallo and R. Chartier, eds, *Storia della lettura nel mondo occidentale* (Rome: Laterza, 1995), pp. 371-410.
- Lobrano, G., *Pater et filius eadem persona: per lo studio della ‘patria potestas’* (Milan: Giuffrè, 1984).
- Lodolini, E., ‘L’amministrazione periferica e locale nello Stato pontificio dopo la Restaurazione’, *Ferrara viva*, 1 (1959), 5-32.
- ‘L’ordinamento giudiziario civile e penale nello Stato Pontificio (sec. XIX)’, *Ferrara viva*, 2 (1959), 43-73.
- Lodolini Tupputi, C., *L’Archivio riservato del Ministero di grazia e giustizia dello Stato pontificio (1849-1868)* (Rome: Gangemi, 2012).
- *La commissione governativa di Stato nella Restaurazione pontificia* (Milan: Giuffrè, 1970).
- Lombardi, D., ‘Fidanzamenti e matrimoni dal Concilio di Trento alle riforme settecentesche’, in Beer, Klapisch-Zuber and De Giorgio, eds, *Storia del matrimonio*, pp. 215-50.
- ‘Intervention by Church and State in Marriage Disputes in Sixteenth- and Seventeenth-Century Florence’, in Dean and Lowe, eds, *Crime, Society and the Law in Renaissance Italy*, pp. 142-56.
- ‘L’odio capitale, ovvero l’incompatibilità di carattere: Maria Falcini e Andrea Lotti (Firenze 1773-1777)’, in Seidel Menchi and Quaglioni, *Coniugi nemici*, pp. 335-67.
- *Matrimoni di antico regime* (Bologna: Il Mulino, 2001).
- *Storia del matrimonio dal Medioevo a oggi* (Bologna: Il Mulino, 2008).

- Lorenzoni, A., *Scelta di disposizioni del diritto romano* (Padua: Cartallier and Sicca, 1838).
- Lowe, K.J.P., *Nuns' Chronicles and Convent Culture in Renaissance and Counter-Reformation Italy* (Cambridge: Cambridge University Press, 2003).
- Luise, F., 'Famiglia e società a Solofra tra il 1640 e il 1676 nei capitoli matrimoniali e nei testamenti', *Mélanges de l'Ecole française de Rome. Moyen-Age, Temps modernes*, 95 (1983), 299-338.
- Lussana, F., 'Misoginia e adulazione: ambiguità dell'immagine femminile nel secolo dei Lumi', *Studi Storici*, 2 (1984), 547-58.
- Luzzatto, G., *Per una storia economica d'Italia: progressi e lacune* (Bari: Laterza, 1957).
- McIver, K., ed., *Wives, Widows, Mistresses, and Nuns in Early Modern Italy: Making the Invisible Visible through Art and Patronage* (Farnham: Ashgate, 2012)
- Mackay, F., and M.L. Krook, eds, *Gender, Politics and Institutions: Towards a Feminist Institutionalism* (Basingstoke: Palgrave Macmillan, 2011).
- Maclean, I., *Logic, Signs, and Nature in the Renaissance: The Case of Learned Medicine* (Cambridge: Cambridge University Press, 2002).
- *The Renaissance Notion of Woman: A Study in the Fortunes of Scholasticism and Medical Science in European Intellectual Life* (Cambridge: Cambridge University Press, 1980).
- Macry, P., *Ottocento: famiglia, élites e patrimoni a Napoli* (Turin: Einaudi, 1988).
- Maggi, S., *Politica ed economia dei trasporti, secoli XIX-XX: una storia della modernizzazione italiana* (Bologna: Il Mulino, 2001).
- Majone, M., *Risorgimento come rivoluzione morale: ideologie e culture politiche* (Rome: Edup, 2012).
- Marcadé, V., *Spiegazione teorico-pratica del Codice Napoleone contenente l'analisi critica degli autori e della giurisprudenza*, 5 vols (Naples: Marghieri, Giachetti, 1874), V.
- Marchetto, G., 'Il volto terribile del padre. 'Metus reverentialis' e matrimonio nell'opera di Tomás Sánchez', in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio (secoli XV-XVIII)*, pp. 269-88.
- Marcucci, M.C., 'Le "zitelle" e il gioco del lotto a Fano (1857-1860)', *Nuovi Studi Fanesi*, 10 (1995), 169-94.
- Marino, E., *Mary Shelley e l'Italia: il viaggio, il Risorgimento, la questione femminile*

- (Florence: Le lettere, 2011).
- Marongiu, A., 'Adulterio (diritto intermedio)', *Enciclopedia del diritto*, I., p. 622.
- Marongiu, A., 'Il matrimonio "alla sardesca"', *Archivio Storico Sardo di Sassari*, 7 (1981), 85-93.
- Marongiu, A., *Saggi di storia giuridica e politica sarda* (Padova: CEDAM, 1975).
- Martines, L., *The Social World of the Florentine Humanists, 1390-1460* (London: Routledge and Kegan Paul, 1963).
- Martucci, R., *L'invenzione dell'Italia unita: 1855-1864* (Milan: Sansoni, 1999).
- Masetti Zannini, G.L., *Gli ordini religiosi femminili (secc. XII-XX)* (Cesena: Stilgraf, 1998).
- Massironi, A., 'The Father's Right to Kill his Adulterous Daughter in the Late Ius Commune', in Di Renzo Villata, ed., *Family Law and Society in Europe from the Middle Ages to the Contemporary Era*, pp. 187-215.
- Mattone, A., 'Assolutismo e tradizione statutaria. Il governo sabauda e il diritto consuetudinario del Regno di Sardegna (1720-1827)', *Rivista storica italiana*, 116/3 (2004), 926-1007.
- Mazza, G., *Tra storia e storie. Banditismo, brigantaggio e milizie civili nel meridione d'Italia dal XVI al XIX secolo* (Rome: Aracne, 2015).
- Mazzotti, M., *The World of Maria Gaetana Agnesi, Mathematician of God* (Baltimore: The Johns Hopkins University Press, 2007).
- McDougall, S., 'Women and Gender in Canon Law', in J.M. Bennett and R. Mazo Karras, eds, *The Oxford Handbook of Women and Gender in Medieval Europe* (Oxford; New York: Oxford University Press, 2013), pp. 163-80.
- Melograni, P., and L. Scaraffia, eds, *La famiglia italiana dall'Ottocento a oggi* (Rome and Bari: Laterza, 1988).
- Meriggi, M., 'L'unificazione nazionale in Italia e in Germania', in A.M. Banti, *Storia contemporanea* (Rome: Donzelli, 1997), pp. 129-50.
- *Milano borghese: circoli ed élites nell'Ottocento* (Venice: Marsilio, 1992).
- 'Società, istituzione e ceti dirigenti', in Sabbatucci and Vidotto, eds, *Storia d'Italia*, I. *Le premesse dell'unità*, I, pp. 119-228.
- Merzario, R., *Il paese stretto: strategie matrimoniali nella diocesi di Como, secoli XVI-XVIII* (Turin: Einaudi, 1981).

- Messbarger, R.M., *The Century of Women: Representations of Women in Eighteenth-Century Italian Public Discourse* (Toronto: University of Toronto Press, 2002).
- and P. Findlen, eds, *The Contest for Knowledge: Debates over Women's Learning in Eighteenth-Century Italy* (Chicago: University of Chicago Press, 2005).
- Mileo, V., *Le comunioni tacite familiari: natura, struttura, garanzia patrimoniale* (Naples: Editoriale scientifica, 1977).
- Minnucci, G., “‘An mulier verberari possit’”: una “quaestio disputata” di argomento matrimoniale’, in Seidel Menchi and Quaglioni, eds, *Coniugi nemici*, pp. 491-98.
- Mitchell, K., and H. Sanson, ‘Introduction’, in Mitchell and Sanson, eds, *Women and Gender in Post-Unification Italy*, pp. 1-9.
- and H. Sanson, eds, *Women and Gender in Post-Unification Italy: Between Private and Public Spheres* (Oxford: Peter Lang, 2013).
- Mochi Onory, S., *Le persone: nella storia del diritto italiano* (Milan: Vita e Pensiero, 1951).
- Molho, A., *Marriage Alliance in Late Medieval Florence* (Cambridge: Harvard University Press, 1994).
- Molho, A. ‘*Tamquam vere mortua*: le professioni religiose femminili nella Firenze del tardo Medioevo’, *Società e Storia*, 43 (1989), 1-44.
- Mombelli Castracane, M., *La codificazione civile nello Stato Pontificio* (Naples: Edizioni scientifiche italiane, 1988).
- Moran, M., ‘Motherhood and the Politics of Family Decisions in Early Modern Italy’, *Journal of Family History*, 40/3 (2015), 351-72.
- Mori, M.T., *Figlie d'Italia: poetesse patriote nel Risorgimento (1821-1861)* (Rome: Carocci, 2011).
- *Salotti: la sociabilità delle élite nell'Italia dell'Ottocento* (Rome: Carocci, 2000).
- Morelli, E., ‘La partecipazione delle donne al Risorgimento’, in Calvi and Chabot, eds, *Le ricchezze delle donne*, pp. 45-60.
- Moroni, A., ‘Antica gente e subiti guadagni: patrimoni aristocratici fiorentini nell'800’, *Biblioteca di storia toscana moderna e contemporanea*, 44 (1997), 1-364.
- Mosher Stuard, S., ‘Dowry and Other Marriage Gifts’, in M. Schaus, ed., *Women and Gender in Medieval Europe: An Encyclopedia* (London: Routledge, 2006), pp. 229-32.

- Mousset, S., *Olympe de Gouges et les droits de la femme* (Paris: Félin, 2003).
- *Women's Rights and the French Revolution: A Biography of Olympe de Gouges* (New Brunswick; London: Transaction Publishers, 2007).
- Nardi, C., 'Una legislazione egualitaria d'un re assolutista: il codice della colonia di S. Leucio', *L'Eloquenza*, 49 (1959), 96-111.
- Nagari, M., *La baronessa Teresa Agazzini di Ameno: una giardiniera novarese del nostro Risorgimento* ([n. p.]: [n. pub.], 1973).
- Neri, V., and B. Girotti, eds, *La famiglia tardoantica: società, diritto, religione* (Milan: LED, 2016).
- Niccoli, O., 'Baci rubati. Gesti e riti nuziali in Italia prima e dopo il Concilio di Trento', in S. Bertelli and M. Centanni, eds, *Il gesto nel rito e nel cerimoniale dal mondo antico ad oggi* (Florence: Ponte alle Grazie, 1995), pp. 224-47.
- Okin, S.M., *Women in Western Political Thought* (Princeton: Princeton University Press, 1992).
- Orlando, F., *Infanzia, memoria e storia da Rousseau ai romantici* (Padova: Liviana, 1966).
- Orvieto, P., *Misoginie. L'inferiorità della donna nel pensiero moderno* (Rome: Salerno editrice, 2002).
- Owen Hughes, D., 'Urban Growth and Family Structure in Medieval Genoa', *Past and Present*, 66 (1975), 3-28.
- Padoa-Schioppa, A., *A History of Law in Europe: From the Early Middle Ages to the Twentieth Century* (Cambridge: Cambridge University Press, 2017).
- Palazzi, M., *Donne sole: storie dell'altra faccia dell'Italia tra antico regime e società contemporanea* (Milan: Bruno Mondadori, 1997).
- 'Solitudini femminili e patrilineaggio. Nubili e vedove fra Sette e Ottocento', in Barbagli and Kertzer, eds, *Storia della famiglia italiana, 1750-1950*, pp. 129-59.
- Pallunto, S., *Sara Levi Nathan* (Pesaro: Comune di Pesaro, 1993).
- Pancera, C., 'Figlie del Settecento', in Ulivieri, ed., *Le bambine nella storia dell'educazione*, pp. 189-213.
- Panizza, L., and S. Wood, eds, *A History of Women's Writing in Italy* (Cambridge: Cambridge University Press, 2000).
- Papagna, E., *Sogni e bisogni di una famiglia aristocratica: i Caracciolo di Martina in età*

- moderna* (Milan: FrancoAngeli, 2002).
- ‘Storie comuni di sposi promessi. I processi della curia arcivescovile di Trani nel tardo Settecento’, in Seidel Menchi and Quagliani, eds, *I tribunali del matrimonio*, pp. 459-95.
- Passaniti, P., *Diritto di famiglia e ordine sociale: il percorso storico della società coniugale in Italia* (Milan: Giuffrè, 2011).
- Paster, G.K., ‘Unbearable Coldness of Female Being: Women’s Imperfection and the Humoral Economy’, *English Literary Renaissance*, 28/3 (1998), 416-40.
- Patriarca, S., *Italianità: la costruzione del carattere nazionale* (Rome: GLF editori Laterza, 2010).
- Pazzaglia, L., ed., *Chiesa e prospettive educative in Italia tra Restaurazione e Unificazione* (Brescia: La Scuola, 1994).
- Pedio, T., *La soppressione del neonato per causa di onore* (Milan: Giuffrè, 1954).
- Pelaja, M., and L. Scaraffia, *Due in una carne: chiesa e sessualità nella storia* (Rome: Laterza, 2008).
- Pelaja, M., ‘La promessa’, in Beer, Klapisch-Zuber and De Giorgio, *Storia del matrimonio*, pp. 391-416.
- *Matrimonio e sessualità a Roma nell’Ottocento* (Rome and Bari: Laterza, 1994).
- *Scandali. Sessualità e violenza nella Roma dell’Ottocento* (Rome: Bink, 2001).
- Pellizer, E., N. Zorzetti, and A. Maffi, eds, *La paura dei padri nella società antica e medievale* (Rome: Laterza, 1983).
- Pene Vidari, G.S., ‘L’attesa dei codici nello Stato Sabauda della Restaurazione’, *Rivista di storia del diritto italiano*, 68 (1995), 107-52.
- *Ricerche sul diritto agli alimenti* (Turin: Giappichelli, 1970).
- Perrot, M., ‘L’emancipazione delle donne in Europa (secoli XIX-XX)’, in P. Bairoch and E. Hobsbawm, eds, *Storia contemporanea*, V vols (Turin: Einaudi, 1996), V, pp. 751-800.
- Pertile, A., *Storia del diritto italiano: dalla caduta dell’Impero Romano alla codificazione*, 8 vols (Turin: Unione tipografico-editrice, 1892).
- Pesaro tra Risorgimento e Regno unitario* (Venice: Marsilio, 2013).
- Pescanti Botti, R., *Donne nel Risorgimento italiano* (Milan: Ceschina, 1966).

- Pescosolido, G., 'L'economia e la vita materiale', in Sabbatucci and Vidotto, eds, *Storia d'Italia, I. Le premesse dell'unità*, I, pp. 3-118
- Petracchi, A., *Le origini dell'ordinamento comunale e provinciale italiano: storia della legislazione piemontese sugli enti locali dalla fine dell'antico regime al chiudersi dell'età cavouriana (1770-1861)* (Venezia: Pozza, 1962).
- Petronio, U., 'Una categoria storiografica da rivedere', in *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, 13 (1984), 705-17.
- Petrusewicz, M., 'Agronomia: innovatori agrari nelle periferie europee dell'Ottocento', in Bevilacqua, ed., *Storia dell'agricoltura italiana in età contemporanea*, III, pp. 295-344.
- *Latifondo: economia morale e vita materiale in una periferia dell'Ottocento* (Venice: Marsilio, 1990).
- Piccialuti, M., *L'immortalità dei beni: fedecommessi e primogeniture a Roma nei secoli XVII e XVIII* (Rome: Viella, 1999).
- Pieroni Bortolotti, F., *Alle origini del movimento femminile in Italia (1848-1892)* (Turin: Einaudi, 1975).
- *Appunti sulle origini del movimento femminile tra '800 e '900: due lezioni e lettere sulla lotta delle donne in Italia e in Europa* (Rome: Salemi, 1986).
- *Linee di storia della questione femminile in Italia prima dell'unità* (Milan: Rivista storica del socialismo, 1962).
- Pisano, L., and C. Veauvy, *Parole inascoltate. Le donne e la costruzione dello Stato-nazione in Italia e in Francia. 1789-1860* (Rome: Editori Riuniti, 1994).
- Pizzini, F., ed., *Profili di donne lombarde: quattro protagoniste dell'aristocrazia nel XIX e XX secolo* (Milan: Mazzotta, 2009).
- Pocar, V., and P. Ronfani, *La famiglia e il diritto* (Rome: Laterza, 1998).
- Pomata, G., *In scienza e coscienza: donne e potere nella società borghese* (Florence: La Nuova Italia, 1979).
- Porciani, I., 'Famiglia e nazione nel lungo Ottocento', in Porciani, ed., *Famiglia e nazione nel lungo Ottocento italiano: modelli, strategie, reti di relazioni*, pp. 15-54.
- ed., *Famiglia e nazione nel lungo Ottocento italiano: modelli, strategie, reti di relazioni* (Rome: Viella, 2006).

- Porisini, G., *Risultati di una ricerca sulle rese del frumento in Italia dal 1815 al 1922* (Bologna: Istituto di storia economica e sociale dell'Università, 1978).
- Proia, G., *Cristina di Belgiojoso: dal salotto alla politica* (Rome: Aracne, 2010).
- Prosperi, A., *Dare l'anima. Storia di un infanticidio* (Turin: Einaudi, 2005).
- *Infanticide, Secular Justice, and Religious Debate in Early Modern Europe* (Turnhout: Brepols, 2016).
- Quaglioni, D., “‘Sacramenti detestabili’. La forma del matrimonio prima e dopo Trento’, in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 61-79.
- ‘Segni, rituali e simboli nuziali nel diritto’, in Seidel Menchi and Quaglioni, eds, *I tribunali del matrimonio*, pp. 43-63.
- Rao, A.M., ‘Il sapere velato. L’educazione delle donne nel dibattito italiano di fine Settecento’, in A. Milano, ed., *Misoginia: la donna vista e malvista nella cultura occidentale* (Rome: Dehoniane, 1992), pp. 243-310.
- Ravera, C., *La donna italiana dal primo al secondo Risorgimento* (Rome: Editori Riuniti, 1951).
- Rendall, J., ‘Women and the Public Sphere’, *Gender and History*, 11/3 (1999), 475-88.
- Riall, L., *Risorgimento: The History of Italy from Napoleon to Nation-State* (New York: Palgrave Macmillan, 2009).
- Ricaldone, L., ‘Eighteenth-century Literature’, in Panizza and Wood, eds, *A History of Women’s Writing in Italy*, pp. 95-106.
- Roberti, F., ‘Adulterio (diritto canonico)’, *Novissimo Digesto Italiano*, 20 vols (Turin: Utet, 1957), I, pp. 333-35.
- Roberti, M., *Milano capitale napoleonica: la formazione di uno stato moderno, 1796-1814* (Milan: Fondazione Treccani, 1946).
- Roberti, M., ‘Per la storia dei rapporti patrimoniali fra coniugi’, *Archivio Storico Sardo*, 1 (1908/9), 273-92.
- Rodriguez-Pereyra, G., ‘Descartes’s substance dualism and his independence conception of substance’, *Journal of the History of Philosophy*, 46/1 (2008), 69-89.
- Rogari, S., ed., *Dal 1848 al 1948: dagli Statuti alla Costituzione Repubblicana* (Florence: Edizioni Polistampa, 2010).
- Rogers, M., and P. Tinagli, eds, *Women in Italy, 1350-1650: Ideals and Realities*

- (Manchester: Manchester University Press, 2005).
- Romanelli, R., 'Electoral Systems and Social Structures. A Comparative Perspective', in Romanelli, ed., *How Did They Become Voters?*, pp. 1-36.
- ed., *How Did They Become Voters? The History of Franchise in Modern European Representation* (The Hague and London: Kluwer Law International, 1998).
- Romano, A., *Famiglia, successioni e patrimonio familiare nell'Italia medievale e moderna* (Turin: Giappichelli, 1994).
- Romano, R., *Paese Italia: venti secoli di identità* (Rome: Donzelli, 1997).
- Rossi Doria, A., *Dare forma al silenzio: scritti di storia politica delle donne* (Rome: Viella, 2007).
- *Diventare cittadine: il voto alle donne in Italia* (Florence: Giunti, 1996).
- *Il primo femminismo: 1791-1834* (Milan: UNICOPLI, 1993).
- *La libertà delle donne* (Turin: Rosenberg and Sellier, 1990).
- Rotondi, C., *Bibliografia dei periodici toscani, 1852-1864* (Florence: Olschki, 1960).
- Rowbotham, S., *Esclusa dalla storia: trecento anni di lotte della donna per la sua liberazione* (Rome: Editori Riuniti, 1977).
- Ruggiero, G., *The Boundaries of Eros: Sex Crime and Sexuality in Renaissance Venice* (Oxford: Oxford University Press, 1989).
- Russo, A., *Nel desiderio delle tue care nuove: scritture private e relazioni di genere nell'Ottocento risorgimentale* (Milan: FrancoAngeli, 2006).
- Sabbatucci, G., and V. Vidotto, eds, *Storia d'Italia, 1. Le premesse dell'unità*, 3 vols (Rome and Bari: Laterza, 1994).
- Salonen, K., *Papal Justice in the Late Middle Ages: The Sacra Romana Rota* (London: Routledge, 2016).
- Sanfilippo, C., *Istituzioni di diritto romano* (Soveria Mannelli: Rubbettino Editore, 2002).
- Sani, R., *Chiesa, educazione e società nella Lombardia del primo Ottocento: gli istituti religiosi tra impegno educativo e nuove forme di apostolato: 1815-1860* (Milan: Centro Ambrosiano, 1996).
- Sanson, H., 'Conduct for the *Real* Widow: Giulio Cesare Cabei's *Ornamenti della gentildonna vedova* (1574)', in Sanson and Luciola, eds, *Conduct Literature for and about Women in Italy, 1470-1900*, pp. 41-62.

- and F. Luciola, eds, *Conduct Literature for and about Women in Italy, 1470-1900: Prescribing and Describing Life* (Paris: Classiques Garnier, 2016).
- “‘La Madre Educatrice’ in the Family and Society in Post-Unification Italy: The Question of Language’, in Mitchell and Sanson, eds, *Women and Gender in Post-Unification Italy*, pp. 39-63.
- ‘Widowhood and Conduct in Late Sixteenth-Century Italy: The Unusual Case of *La Vedova del Fusco* (1570)’, *The Italianist*, 35/1 (2015), 1-26.
- *Women, Language and Grammar in Italy, 1500-1900* (Oxford: Oxford University Press for the British Academy, 2011).
- Santoncini, G., ‘Appunti per una bibliografia critica sulla seconda Restaurazione pontificia’, in *Proposte e ricerche*, 32 (1994), 156-85.
- *Ordine pubblico e polizia nella crisi dello Stato Pontificio (1848-1850)* (Milan: Giuffrè, 1981).
- *Sovranità e giustizia nella Restaurazione pontificia. La riforma della organizzazione della giustizia criminale nei lavori preparatori del Motu Proprio del 1816* (Turin: Giappichelli, 1996).
- Santoro-Passarelli, F., *Libertà e autorità nel diritto civile: altri saggi* (Padua: CEDAM, 1977).
- Saraceno, C., ‘Le donne nella famiglia: una complessa costruzione giuridica. 1750-1942’, in Barbagli and Kertzer, eds, *Storia della famiglia italiana, 1750-1950*, pp. 103-28.
- Sardelli, T., ‘I processi di buon costume istruiti dal Tribunale del Vicariato di Roma nell’Ottocento’, *Ricerche per la storia religiosa di Roma*, 1 (1977), 113-71.
- Satta, M.M., ‘Struttura familiare e modelli di trasmissione dell’eredità’, in A.M. Cecaro et al., *Donne e società in Sardegna: eredità e mutamento: materiali e strumenti di ricerca* (Sassari: Iniziative culturali, 1989), pp. 59-78.
- Sbriccoli, M., and A. Bettoni, eds, *Grandi tribunali e Rote nell’Italia di Antico Regime* (Milan: Giuffrè, 1993).
- Scaraffia, L., ‘Essere uomo, essere donna’, in Melograni and Scaraffia, eds, *La famiglia italiana dall’Ottocento a oggi*, pp. 193-258.
- and G. Zarri, eds, *Women and Faith: Catholic Religious Life in Italy from Late Antiquity to the Present* (Cambridge; London: Harvard UP, 1999).

- Schiaffino, A., 'Quelques données sur le remariage dans un milieu urbain: Bologne aux dix-neuvième et vingtième siècles', in Dupâquier et al., *Marriage and Remarriage*, pp. 397-409.
- Schiebinger, L., *The Mind has no Sex? Women in the Origins of Modern Science* (Cambridge; London: Harvard University Press, 1991 [1989]).
- Schutte, A.J., *By Force and Fear: Taking and Breaking Monastic Vows in Early Modern Europe* (Ithaca: Cornell University Press, 2011).
- 'Genitori, figli e monacazione forzata: norme ecclesiastiche versus patria potestà (secc. XVII-XVIII)', in G. Ciappelli, S. Luzzi, M. Rospocher, eds, *Famiglia e religione in Europa nell'età moderna: studi in onore di Silvana Seidel Menchi* (Rome: Edizioni di Storia e Letteratura, 2011), pp. 147-59.
- Schwegman, M., 'Horrorific Heroines: Female Brigandage, Honour and Violence in Post-Unification Italy, 1860-1870', in Mitchell and Sanson, eds, *Women and Gender in post-Unification Italy*, pp. 111-31.
- Scoca, F.G., *Il brigantaggio postunitario nel dibattito parlamentare (1861-1865)* (Naples: Editoriale Scientifica, 2016).
- Scott, J.W., *Gender and the Politics of History* (New York: Columbia University Press, 1988).
- Segalen, M., 'Mentalité populaire et remariage en Europe occidentale', in Dupâquier et al., *Marriage and Remarriage*, pp. 67-76.
- Seidel Menchi, S., and D. Quaglioni, eds, *Coniugi nemici: la separazione in Italia dal XII al XVIII secolo* (Bologna: il Mulino, 2000).
- and D. Quaglioni, eds, *I tribunali del matrimonio (secoli XV-XVIII)* (Bologna: Il Mulino, 2006).
- ed., *Marriage in Europe: 1400-1800* (Toronto: University of Toronto Press, 2016).
- and D. Quaglioni, eds, *Matrimoni in dubbio: unioni controverse e nozze clandestine in Italia dal XIV al XVIII secolo* (Bologna: Il Mulino, 2001).
- 'Percorsi variegati, percorsi obbligati: elogio del matrimonio pre-tridentino', in Seidel Menchi and Quaglioni, eds, *Matrimoni in dubbio*, pp. 17-60.
- and D. Quaglioni, eds, *Trasgressioni: seduzione, concubinato, adulterio, bigamia (XIV-XVIII Secolo)* (Bologna: Il Mulino, 2004).

- Semeraro, C., *Restaurazione, chiesa e società: la 'seconda ricupera' e la rinascita degli ordini religiosi nello Stato pontificio (Marche e Legazioni 1815-1823)* (Rome: LAS, 1982).
- Serri, M., 'La piccola grande tessitrice. Clara Maffei', in Doni et al., *Donne del Risorgimento*, pp.111-22.
- Shehan, C.L., ed., *The Wiley Blackwell Encyclopedia of Family Studies*, 4 vols (Chichester: Wiley Blackwell, 2016), II, pp. 1085-86.
- Shorter, E., 'Emancipazione femminile, controllo delle nascite e fecondità nella storia europea', in Barbagli, ed., *Famiglia e mutamento sociale*, pp. 317-59.
- Shusterman, N.C., *The French Revolution: Faith, Desire, and Politics* (London: Routledge, 2014).
- Sledziewski, E.G., 'Rivoluzione e rapporti fra i sessi. La svolta francese', in Duby and Perrot, eds, *Storia delle donne. L'Ottocento*, pp. 34-50.
- Smith, B., ed., *The Oxford Encyclopedia of Women in World History* (Oxford: Oxford University Press, 2008).
- Smith, C.E., *Papal Enforcement of Some Medieval Marriage Laws* (Port Washington: Kennikat Press, 1972 [1940]).
- Sodini, E., *Le carte di Felicita Bevilacqua: famiglia, nazione e patriottismo al femminile in un archivio privato (1822-1899)* (Verona: Cierre, 2010).
- Soldani, S., and G. Turi, eds, *Fare gli italiani: scuola e cultura nell'Italia contemporanea* (Bologna: Il Mulino, 1993).
- *Introduzione*, in Soldani and Turi, eds, *Fare gli italiani* (1993), pp. 9-34
- ed., *L'educazione delle donne: scuole e modelli di vita femminile nell'Italia dell'Ottocento* (Milan: FrancoAngeli, 1989).
- 'La fortunosa conquista di un'istruzione secondaria da parte delle giovani italiane', in Bruni, E., et al, eds, *La donna in Italia: 1848-1914: unite per unire* (Cinisello Balsamo: Silvana, 2011), pp. 15-26.
- Solimano, S., *Il letto di Procuste: diritto e politica nella formazione del Codice civile unitario. I progetti Cassinis (1860-1861)* (Milan: Giuffrè, 2003).

- *L'edificazione del diritto privato italiano: dalla Restaurazione all'Unità* (19 maggio 2005), in *forum historiae iuris*, <<http://www.forhistiur.de/2005-05-solimano/>> [accessed 6 December 2017].
- Soresina, M., *L'età della Restaurazione, 1815-1860: gli Stati italiani dal Congresso di Vienna al crollo* (Milan: Mimesis, 2015).
- Southon, E., *Marriage, Sex and Death: The Family and the Fall of the Roman West* (Amsterdam: Amsterdam University Press, 2017).
- Sperling, J.G., *Convents and the Body Politic in Late Renaissance Venice* (Chicago: University of Chicago Press, 1999).
- 'Marriage at the Time of the Council of Trent (1560-70): Clandestine Marriages, Kinship Prohibitions, and Dowry Exchange in European Comparison', *Journal of Early Modern History*, 8/1-2 (2004), 67-108.
- Spini, G., *Ricerca dei libertini; la teoria dell'impostura delle religioni nel Seicento italiano* (Rome: Editrice universale, 1950).
- Spinosa, A., *Italiane: il lato segreto del Risorgimento* (Milan: Mondadori, 1994).
- Stolleis, M., 'Judicial Interpretation in Transition from the *Ancien Régime* to Constitutionalism', in Y. Morigiwa, M. Stolleis and J.L. Halpérin, eds, *Interpretation of Law in the Age of Enlightenment: From the Rule of the King to the Rule of Law* (Dordrecht: Springer, 2011), pp. 3-17.
- Strumia, E., 'Un giornale per le donne nel Piemonte del 1799: "La vera repubblicana"', *Studi storici*, 30/4 (1989), 917-46.
- Tafuro, A., *Madre e patriota. Adelaide Bono Cairoli* (Florence: Firenze University Press, 2011).
- Taricone, F., and B. Pisa, *Operaie, borghesi, contadine nel XIX secolo* (Rome: Carucci, 1985).
- Tenenti, A., *L'Italia del Quattrocento. Economia e società* (Rome: Laterza, 1996).
- Tieri, N., *Il brigantaggio post unitario. Un'analisi di sociologia storica* (Rome: Aracne, 2013).
- Tilche, G., *Maria Gaetana Agnesi* (Milan: Rizzoli, 1984).
- Tonini Masella, G.D., *Donne sole, modelle, prostitute: marginalità femminili a Roma fra Sette e Ottocento* (Rome: Edizioni di storia e letteratura, 2012).

- ‘Il buon nome delle donne. Matrimonio, professione e reputazione nella Roma dell’Ottocento’, *Storia delle donne*, 6/7 (2010-2011), 139-55.
- Trifone, R., *Il fedecommesso: storia dell’istituto in Italia* (Naples: Piero, 1914).
- Turchi, L., ‘Adulterio, onere della prova e testimonianza. In margine a un processo correggese di età tridentina’, in Seidel Menchi and Quagliani, *Trasgressioni: Seduzione, Concubinato, Adulterio, Bigamia (XIV-XVIII Secolo)*, pp. 305-50.
- Turnaturi, G., *Signori e signore d’Italia. Una storia delle buone maniere* (Milan: Feltrinelli, 2011).
- Turner, D.M., *Fashioning Adultery: Gender, Sex, and Civility in England, 1660-1740* (Cambridge: Cambridge University Press, 2002).
- Turner, J.G., *Sexuality and Gender in Early Modern Europe: Institutions, Texts, Images* (Cambridge: Cambridge University Press, 1993).
- Turno, M., *Il malo esempio: donne scostumate e prostituzione nella Firenze dell’Ottocento* (Florence: Giunti, 2003).
- Ulivieri, S., *Educare al femminile* (Pisa: ETS, 1995).
- *Le bambine della storia dell’educazione* (Rome and Bari: Laterza, 2003);
- Ungari, P., *Il diritto di famiglia in Italia dalle costituzioni giacobine al Codice civile del 1942* (Bologna: Il Mulino, 1970).
- *Storia del diritto di famiglia in Italia (1796-1942)* (Bologna: Il Mulino, 1974).
- Valsecchi, C., ‘L’istituto della dote nella vita del diritto del tardo Cinquecento: i *Consilia* di Jacopo Menochio’, *Rivista di storia del diritto italiano*, 52 (1994), 205-85.
- Varriale, M., *Dizionario biografico degli italiani*, 90 (Treccani), s.v. Marianna De Crescenzo, forthcoming.
- ‘Perché anche noi siamo cive[s]’: reti amicali e familiari nel Carteggio Ranieri’, *Chronica Mundi*, 12 (2017), 73-98.
- Vecchio, G., *Profilo storico della famiglia: la famiglia italiana tra Ottocento e Novecento* (Cinisello Balsamo: San Paolo, 1999).
- Ventrone, V., *L’amministrazione dello Stato pontificio dal 1814 al 1870* (Rome: Edizioni universitarie, 1942).
- Verdile, N., ed., *L’utopia di Carolina. Il Codice delle leggi leuciane* (Naples: La stamperia digitale, 2007).

- ‘Tra leggi illuminate e lettere private: il 1789 di Maria Carolina d’Asburgo’, *Archivio per la Storia delle Donne*, 5 (2008), 71-106.
- Verga, A., *Le comunioni tacite familiari* (Padova: CEDAM, 1930).
- Vermiglioli, P., *Elementi ossia Istituzioni Civili di Giustiniano Imperatore* (Perugia: Baduel, 1830).
- Vinciguerra, S., ed., *Codice dei delitti e delle pene pel Regno d’Italia (1811)* (Padua: Cedam, 2002).
- ed., *Codice penale universale austriaco (1803)* (Padua: Cedam, 2001).
- ed., *Diritto penale dell’Ottocento: i codici preunitari e il codice Zanardelli* (Padua: CEDAM, 1993).
- Viora, M.E., *Consolidazioni e codificazioni: contributo alla storia della codificazione* (Turin: Giappichelli, 1967).
- *Le Costituzioni piemontesi. Leggi e costituzioni di S. M. il Re di Sardegna, 1723, 1729, 1770. I. Storia esterna della compilazione* (Turin: Bocca, 1928).
- Visceglia, M.A., ‘Corpo e sepoltura nei testamenti della nobiltà napoletana’, *Quaderni Storici*, 50 (1982), 583-614.
- ‘Linee per uno studio unitario dei testamenti e dei contratti matrimoniali dell’aristocrazia feudale napoletana tra fine Quattrocento e Settecento’, *Mélanges de l’Ecole française de Rome. Moyen-Age, Temps modernes*, 95 (1983), 393-470.
- ‘Introduzione’, in M.A. Visceglia and R. Ago, eds, *Signori, patrizi, cavalieri in Italia centro-meridionale nell’età moderna* (Rome: Laterza, 1992), V-XXXIII.
- Visconti, A., *Onore, reputazione e diritto penale* (Milan: EDUCatt, 2011).
- Vismara, G., *Il diritto di famiglia in Italia dalle riforme ai codici: appunti* (Milan: Giuffrè, 1978).
- *L’unità della famiglia nella storia del diritto in Italia* (Rome: Apollinaris, 1956).
- ‘Momenti di storia della famiglia sarda’, in *Famiglia e società sarda* (Milan: Giuffrè, 1971), pp. 181-203.
- Vovelle, M., ‘La morte nella mentalità e nella pratica religiosa’, in C. Russo, ed., *Società, Chiesa e vita religiosa nell’Ancien Régime* (Naples: Guida, 1976), pp. 231-82.
- *Piété baroque et déchristianisation en Provence au XVIIIe siècle. Les attitudes devant la mort d’après les clauses des testaments* (Paris: Plon, 1973).

- Webley, L., 'Stumbling Blocks in Empirical Legal Research: Case Study Research', *Law and Method* (October, 2016), 1-21.
- Weinrib, J., 'Kant on Citizenship and Universal Independence', *Australian Journal of Legal Philosophy*, 33 (2008), 1-25.
- Willson, P., 'From Margin to Centre: Recent Trends in Modern Italian Women's and Gender History', *Modern Italy*, 11 (2006), 327-37.
- *Gender, Family and Sexuality: The Private Sphere in Italy, 1860-1945* (Basingstoke: Palgrave Macmillan, 2004).
- Wood, S., 'Murder in the Harem: Cristina di Belgiojoso', in Mitchell and Sanson, eds, *Women and Gender in post-Unification Italy*, pp. 135-152.
- Woolf, S.J., *Napoleon's Integration of Europe* (London: Routledge, 1991).
- Yin, R.K., *Case Study Research: Design and Methods* (Thousand Oaks: Sage, 1994).
- Zaffignani, G., *L'università e la ragazza: la verità sulla prima laurea in legge ottenuta in Europa da una donna Maria Pellegrina Amoretti, Pavia, 1777* (Acirerale: Bonanno, 2010).
- Zamagni, V., *Industrializzazione e squilibri regionali in Italia: bilancio dell'età giolittiana* (Bologna: Il Mulino, 1978).
- Zanetti, D., *La demografia del patriziato milanese nei secoli XVII, XVIII, XIX* (Pavia: Università di Pavia, 1972).
- Zarri, G., *Figure di donne in età moderna: modelli e storie* (Rome: Edizioni di storia e letteratura, 2017).
- *Libri di spirito: editoria religiosa in volgare nei secoli XV-XVII* (Turin: Rosenberg and Sellier, 2009)
- and N. Baranda Leturio, eds, *Memoria e comunità femminili: Spagna e Italia, secc. XV-XVII* (Florence: Firenze University Press, 2011)
- 'Monasteri femminili e città (secoli XV-XVIII)', in G. Chittolini and G. Miccoli, eds, *Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea* (Turin: Einaudi, 1986), pp. 357-429.
- 'Presentazione', in Tarabotti, A., *Lettere familiari e di complimento*, ed. by M. Ray and L.L. Westwater (Turin: Rosenberg and Sellier, 2005), pp. 7-17.
- *Recinti: donne, clausura e matrimonio nella prima età moderna* (Bologna: Il Mulino,

2000).

Zazzeri, A., 'Donne, nazione e mobilitazione patriottica nel Quarantotto toscano', *Rassegna storica toscana*, 55 (2009), 105-35.

Zorzoli, M.C., 'Della famiglia e del suo patrimonio: riflessioni sull'uso del fedecommesso in Lombardia tra Cinque e Seicento', *Archivio storico lombardo*, 115 (1989), 91-148.