Illicit Sex and Law in Early-Modern Italian Ghettos

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Introduction

In early modern Italian Jewish society, girls were considered eligible to work as servants from the age of ten. The lives of these female servants, young and in the majority of cases unmarried, were at times shaped by a sexual component in their relationship with their masters or co-workers. In the course of the seventeenth and the eighteenth centuries, Italian Jewish society was challenged and even threatened by Jewish maidservants who found themselves in a liminal position in which their honor, reputation, and offspring were in a state of suspension. This presentation explores the changes in attitude toward them and illicit sexual relations within the ghetto societies that occurred in Italy between the late seventeenth century and the middle of the eighteenth century by using archival sources from both Jewish courts and civic magistracies in the cities of Venice, Mantua, and Modena during the years 1691-1751. Relationships characterized by women’s exploitation generally went unnoticed except in cases resulting in pregnancy. In early modern Italy, according to both Roman law and Jewish law Jews and Christians held to a similar definition of illicit sex specified in Latin as *stuprum*, which covers inappropriate sex ranging from consensual to the use of force outside marriage. Having sex with a virgin or a widow would have been classified as *stuprum* (*ones* in Hebrew); a sexual relationship with a married woman would have been classified as adultery.

Through a combination of paternalism, cohesiveness, innovation, and surveillance, Italian Jewish communities could contain destabilizing behaviors within the society, and reintegrate women who otherwise would have been tragically lost by obliging their seducers to marry them or to take care of them as well as their illegitimate children. As recent scholarship has demonstrated, in contemporaneous Italian Christian contexts and other European Jewish communities women in similar conditions were often rejected and left alone, along with their illegitimate offspring. If these servants were minors, their employers were considered responsible for their safety—in our context, their virginity or honor—and in cases of pregnancy employers were obliged to pay the expenses of childbirth, nursing, and supporting the child until adulthood. If the woman and the seducer were both single the court tended to pressure the accused to marry the girl, otherwise the
father had to take care of the child produced by the illicit sex rather than the mother.

Analysis

This presentation begins with a discussion of a case of illicit sex and pregnancy involving an abandoned baby in the ghetto of Venice, a Jewish maidservant, her Jewish master, and the Jewish community of Venice in 1691, preserved in the records of the Archivio di Stato in Venice. Relationships characterized by women’s sexual exploitation did not go unrecorded within Italian Jewish communities in the previous centuries. However, it appears that at the turn of the seventeenth century the number of such cases made public because they resulted in pregnancy was so numerous that they constituted a threat to the social balance of Italian Jewish communities. The 1691 case (document n. 1) includes an inquiry conducted by the Cattaveri, a Venetian magistracy responsible for various functions and in charge of the administration of the ghetto since 1516. On the night of July 5 a baby with a mezuzah and the indication of his birth and supposed date for his circumcision was found in a basket, abandoned in the Venetian ghetto by Jewish dwellers. The massari (lay leaders) of the Jewish community and the Cattaveri were immediately alerted; the latter launched an investigation in order to ascertain if the baby was Jewish or Christian and the circumstances of his birth and following abandonment. After investigation and summoning of witnesses, it was determined that the child was Jewish. A young Jewish maidservant, Corona Levi, had been seduced and made pregnant by her master, Sanson Sacerdote, in Nomi, a village on the Colli Euganei near Padua and Venice. With the complicity of a relative, the latter had taken the baby and abandoned him in the Venetian ghetto. The document under analysis is an apologetic plea written by the Venetian massari to the Cattaveri at the time of the inquiry in order to prove the Jewishness of the baby and to obtain his restitution. It is based on biblical sources (mainly from the Vulgate), canonical law, and observations on the customs and morality of the Venetian Jewish society of the time. The Venetian Jewish leaders built their case around four main points: Jews’ traditional refraining from proselytism in order to prove that no Jew or Jewess (or any Christian) would leave a non-Jewish child in the ghetto with Jewish objects; the prohibition according to canon laws against Christian Catholics baptizing Jewish children invitis parentibus; the motivation of honor and threat of potential shame to explain the silence of the parents; and the awareness of the insurgence of numerous adulterous relations and the presence of illegitimate children within the Venetian ghetto at the time.

Two years later (document n. 2) the Jewish community of Mantua had to deal with another case of a young Jewish maidservant that again involved the same master, Sanson (or Sansone) Sacerdote. The girl serving in his household, Chella Levi, had
become pregnant illicitly. The woman also could be the some of the previous case—דלייל means crown (in Italian, corona). The document, preserved in the Archive of the Mantua Jewish Community, is an agreement between the Jewish community and Sacerdote: the latter maintained that he was not the father, but he took on the entailed expenditures. Eventually the Jewish community could be considered responsible for a minor servant’s loss of virginity, pregnancy, and future child—a factor that would become more and more important for Italian Jewish communities when dealing with illegitimate pregnancies in the following decades. In this case we see one of the solutions adopted in such circumstances: if servants were minors, their employers were considered responsible for their virginity and in cases of pregnancy when the fathers were not identified or found unable to provide for the girl and their future baby, the employer was obliged to pay the expenses of childbirth, nursing, and supporting the child until adulthood. In this kind of transaction the absolution of the kahal kadosh from any responsibility and charge appeared to be one of the first priorities for the Jewish lay leaders.

Evidence from the eighteenth century, preserved in the Archive of the Modena Jewish Community, shows a more-decisive and consistent intervention by the local Jewish massari and rabbis in these illicit relationships under Jewish roofs; this kind of intrusion and safeguarding of Jewish maidservants became even more evident in the second half of the century. If the seducer was identified as a servant or a relative of the employer, the rabbinical tribunal could charge the employer to guarantee that the expenses for childbirth, dowry of the girl, and support of the child through adulthood would be paid by the father of the child alone. A young woman whose loss of virginity or her honor as a widow and subsequent pregnancy were publicly known within ghetto society could thus be aided in finding a potential husband without the burden of a child born out of wedlock. If single, the man often accepted—willingly or under pressure from the Jewish community or the rabbinic court—marriage to the maidservant and reestablishing to an honored condition the woman who, voluntarily or not, had entrusted her honor and her future to him. In 1749 physician Moisè Vaigler from Mantua was forced to marry his servant, Rachel Arezzi, from Modena, whom he had seduced and impregnated; he had to add to the ketubah that he would never divorce the girl and that he would take care of their child and recognize him as his own son. In fact, when he tried to divorce Rachel two years later (document n. 3), both the Jewish courts of Modena and Mantua denied his petition. In 1751 Modena, in the case of the illicit relation between widow Ester Ventura Vigevani and Abram Gallico (document n. 4) and her pregnancy, the latter recognized his responsibilities and accepted marriage to the former under the condition of receiving the dowry amount that Esther as a widow was entitled to receive from her brothers.
Bibliography


Georgia Arrivo, Seduzioni, promesse, matrimoni: il processo per stupro nella Toscana del Settecento, Premessa di Daniela Lombardi (Rome, 2006).


Carla Boccato, “Il caso di un neonato esposto nel Ghetto di Venezia alla fine del ‘600,” La Rassegna Mensile di Israel, 44.3 (1978): 178-202. [It includes a partial transcription of the document n. 1]


Cissie Fairchilds, Domestic Enemies: Servants and Masters in Old Regime France (Baltimore, 1984).


Daniela Lombardi, Matrimoni di antico regime (Bologna, 2001).

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[f. 148 r.] Most serene Republic, favored by the Divine Majesty for its eternal duration from its birth to this day with a true freedom that has never been interrupted and given by the Divine Majesty for its eternal duration thorough to the present; for which it [the Venetian Republic] has become famous and illustrious amid all the dominions of the universe and agreed to distribute with rational balance this precious gift to its vassals, because of which the famous city of Venice has become the only sanctuary temple of freedom for all humanity.

Most Illustrious and excellent Cattaveri, the Hebrew Nation, most humble servant of Your Excellencies, for summa gratia of her mostly devout Prince, has dwelled for many centuries under this most-merciful government with the freedom to live according to their customs and rites. And with the free control of their children and holiest laws of this most serene Homeland, they should moderate the senses and their lust so that the Jew, being satisfied in the matters of Aphrodite with pleasures both honest and permitted by her rules, should give birth only to legitimate children, in which case there would be no need to bother Your Excellencies. But given that 3,000 souls of every age and sex [live in this ghetto], it is impossible to avoid cases of illegitimate births, and in those circumstances reputation obliges that they be hidden. Since the piety of the Nations in every place requires that they be exposed, the children are exposed and then secretly housed, and with indefatigable application educated as Justice wills. Nor does the goodness of the Prince refuse the Jew a very opportune solution to his/her vicissitudes and for the safety of innocent children, one that keeps the cries of the children from being the trumpets of the shame of their parents. In this situation, the charity of the leaders of the ghetto has always been of help because, exposed outside of their houses or near them, the very same babies were welcomed and fed, thanks to resources provided by the Jewish Community (Università [ebraica]). Currently many illegitimate men who do not know their fathers live in the ghetto, raised by the charity of the leaders. There have always been and today there still are many of them for whom [illegitimate men] the lifting of this refuge would lead to a worse situation. Mothers could strangle children, throw them into the wells; a girl raped or seduced [stuprata] or a woman committing adultery could kill herself rather than being...
exposed to public shame. Excellent Signori for the sake of charity, you think it right to deny her this solution. And if Piety does not convince you [otherwise], Your Excellencies should imagine [the case of] a Jewess who committed an error, what more could she do in order to hide her shame and save the son of the Religion, for herself and for the Father than what this one has done, for whom we supplicate You with bent knee.

She put the child into a bag, at night, when the ghetto is closed, at the bottom or at the top of a stairway in the ghetto, close to the headquarter of the two leaders; she attached to it a paper called a mezuzah with a Jewish devotional prayer around it; she wrote there a report in Hebrew amid the binders that says that this baby was born on the 7th [f. 148 v.] of the month of Tammuz and this in regard to the circumcision. A woman is found ready to keep and welcome him, and will there be any doubt that the child is Jewish? Illustrious Excellencies, would you really be inclined to separate him from his parents and send him to the Piety? [lit. “alla Pietà,” a Christian orphanage in the area Pietà, on the Riva degli Schiavoni, in Venice]. To the Hospital? And if the father is wealthy and several years from now would want to welcome him, Your Excellencies would not wish to have him lose his patrimony so that he would remain miserable; or if the mother is currently committing adultery or if it is not safe for her life to declare herself publicly as the mother of this baby, once the situation changes, she would not be able to help him, and what is the fault of this creature to be so deprived?

The uncontaminated justice of Your Excellencies must be convinced that this baby is Jewish, as much from his father as from his mother. And if the father were Christian she would have taken him to the Piety [lit. Pietà] freely; she would not have attached that paper, nor the Jewish prayer. Indeed what would have been the point to leave in the ghetto, in awful conditions, a child who instead [as a Christian] could be sent to a comfortable place and favorable to his religion? Therefore the father is certainly Jewish. If also the mother, there is no doubt. A Christian [mother] and a Jewish father? Most Excellent Fathers, how could she come to the ghetto? In this case, the mother would either keep him or send [him] to the Hospital. But could Your Excellencies imagine the Jew committing a worse crime than the former? To expose himself to the disgrace a Christian woman leading a wicked life? [A woman] who could at any moment lay claim to the baby and make him [the seducer] guilty of a capital crime, this is not thinkable, nor is it something that can be conceived by the sublime minds of Your Excellencies.

But if this were the case, the scandal of this affair would already be in the open, and the Tribunal of Your Excellencies would already have heard the complaint of the mother.

Excellent signori, you should know that since the Jew is tenacious in the observance of his religion, he has no custom of proselytism. Rather, Ruth from Moab is convinced by her mother-in-law to return to her people, to the observance of her customs “Behold thy kinswoman is returned to her people, and to her gods,
go thou with her [Ruth 1:15].” Therefore, a Jew would not be trapped by this
deception to bring to the ghetto a child born outside the ghetto.
Even less if the mother were Christian, in spite of the father being Jewish, the child
would not be in the condition to be received among the Jews, and this resolves the
controversial question and removes any doubt that this child might have been born
even far away and then carried into the ghetto, rather than having been born in the
Ghetto itself. In fact, according to our rites, a child born to a foreign woman is
excluded from our religion and remains in that of the mother. And to disembowel
any doubt from the conscience of Your Excellencies, we can adduce the
unanimous decisions of our Rabbis, but you only need deign think about the
following very famous case described in the Holy Scriptures in Ezra Chapters 9
and 10, which does not leave [f. 149 r.] any room for doubt.
When, with the permission of Cyrus of Persia, our ancestors returned from the
Babylonian Captivity to Jerusalem under the guidance of Ezra himself, they were
accused of admitting during the captivity some foreign women and generating
many impure children, and because of this they were the principal offenders of the
Nation. Here was the accusation: “the princes came to me, saying: The people of
Israel, and the priests and Levites have not separated themselves from the people
of the lands, and […] For they have taken of their daughters for themselves and for
their sons, and they have mingled the holy seed with the people of the lands. And
the hand of the princes and magistrates hath been first in this transgression [Ezra
9:1-2].” The Princes, the magistrates have children born to Foreign Women. After
a very efficacious admonishing oration delivered to the community, it was decided
with unanimous acclamation to remedy the situation by sending into perennial
exile the women with their children and to exclude them [the women] from the
Nation. And “when Esdras was thus praying, and beseeching, and weeping, and
lying before the temple of God, there was gathered to him of Israel an exceeding
great assembly of men and women and children, and the people wept with much
lamentation. And Sechenias the son of Jehiel of the sons of Elam answered, and
said to Esdras: We have sinned against our God, and have taken strange wives of
the people of the land: and now if there be repentance in Israel concerning this,  Let
us make a covenant with the Lord our God, to put away all the wives, and such as
are born of them, according to the will of the Lord, and of them that fear the
commandment of the Lord our God: let it be done according to the law.” [Ezra
10:1-3]. So it was done and all the impure children born to foreigner women were
excluded from all the families. Thus there is no way that this child could be born to
another mother than to a Jewish woman.
Your Excellencies are required to administer justice. This child belongs to the
ghetto. That woman received him from the mother. She keeps silent in order to not
betray her; it is unlikely she can be convinced otherwise. The favor in which you
hold your religion should not change the noble and righteous souls of Your
Excellencies; Christian piety has always been built on the crucial tenet of diffusing
its faith to other nations and yet many illustrious popes and all the theologians forbade and rule that “Jews’ and other infidels’ children should not be baptized without “the consent of their parents,” and Thomas Aquinas rules, “Nobody should commit an injury, indeed it would be an injury if Jews’ children [f. 149 v.] were baptized without their [parents’] consent.” If therefore many holy fathers put respect for justice before that of religion, Your Excellencies should follow this example. Because as Saint Thomas [Aquinas] himself declares, “Hence it would be contrary to natural justice, if a child, before coming to the use of reason, were to be taken from its parents’ custody, or anything done to it against its parents’ wish. […] and then it should be induced not by compulsion but by persuasion [Thomas Aquinas, Summa Theologica, II, 2, article 12].” This is surely a Jew, for all these circumstances: a Jewish baby, exposed in the ghetto during the night. With a devotional paper in Hebrew, written on parchment, with many ceremonies and a bulletin in the Hebrew language, specifying the place of the birth in the binders; found by a Jewish woman [who] offered him to the leaders, and presented under the reflection of Yours Excellencies; Jewish because of she who found him, and Jewish because of the place, time, and all the circumstances have been proven since the beginning of the trial. We therefore hope that the Justice will consider it so until there should appear proof to the contrary that moreover is declared by sworn witnesses that before being in the ghetto the baby was outside, or that it was moved to some place, or that these objects were provided deceitfully and this has to be proved with clarity in order to move Justice and the uncontaminated soul of the judge to remove the infant from the context in which he is being decided according to canon laws in C. Si expositus 87 dicet our precise case, “If [an infant] exposed in front of a church and found and welcomed by someone because of piety, it should be necessary to obtain a conclusive proof: and if the infant who has been welcomed will not be requested and recognized by ten days, the infant surely will belong to whom who had welcomed [him].” Therefore, if no contrary during the investigation emerges, it should be left to the peaceful process of the leaders of the Ghetto who in this case are his fathers (as states the Law Textu[s] in Pari de Regulis in 6° [Liber Sextus decretarlium, lib. V, tit. 12, De Regulis Iuris Canonici, vol. 2, Reg. 65, col. 1124], “Because in equal fault, better is the condition of the possessor.”

This [baby] is Jewish for certain, and as such and under any circumstances we hope that justice will consider [him]. This Our fathers were slaves in Egypt. The princess daughter of Pharaoh saw a baby, abandoned on the Nile, and because he was unexpectedly alive against the regal edict, “After this there went a man of the house of Levi; and took a wife of his own kindred. And she conceived, and bore a son: and seeing him a goodly child, hid him three months. And when she could [f. 150 r.] hide him no longer, she took a basket made of bulrushes, and daubed it with slime and pitch: and put the little babe therein, and laid him in the sedges by the river's brink [Exodus 2:1-3].” This is our case. “And behold the daughter of Pharao
came down [Exodus 2:5],” because this is one of the children of the Hebrews [Exodus 2:6]. In front of the circumstances she supposed that the child was Jewish, then the sister came, and proposed her a Jewish nurse. She received. “And Pharao's daughter said to her: Take this child, and nurse him for me: I will give thee thy wages [Exodus 2:9].” In this way the princess speaks.

Why the princess did not doubt that this be right and in order to disseminate [her] religion does not keep him? If “this is one of the children of the Hebrews;” the son did not have the Hebrew bulletin that said the date of birth, yet he was three-month old and likewise were the Jewish children at the time condemned to pass from the cradle to the tomb, as soon as born, nor he could be three-month old, but in any case “this is one of the children of the Hebrews.”

That baby did not have a devotional paper, typical custom of Jews, still da “this is one of the children of the Hebrews.” He was neither in Ghetto during the night, nor in a public canal; and “when she saw the basket in the sedges she sent one of her maids for it [Exodus 2:5],” yet “this is one of the children of the Hebrews.”

The young princess had mercy toward the child, “She opened it, and seeing within it an infant crying [Exodus 2:6].” But her compassion did not force her to change his status from slave to prince because this act would have been against justice, which requires that everyone receives his own. “This is one of the children of the Hebrews.”

She paid a nurse and she wanted a Jewish nurse, “[answered] I will give thee thy wages. The woman took and nursed the child: and when he was grown up, she delivered him to Pharaoh's daughter [Exodus 2:9-10].” “She answered: Go [Exodus 2:8],” because every thought brought to the conclusion that “this is one of the children of the Hebrews.” You are Augusti Principes. Excellent Cattaveri, who delegated by the Excellent Senate to our government assist us with much charity and with that exemplar justice, inherited from your glorious ancestors. When the consciousness is persuaded under any circumstance and that “this is one of the children of the Hebrews,” you should not be moved by religious zeal to have him fed by other milk than his [f. 150 v.], but rather allow to call “a Hebrew woman, to nurse the babe [Exodus 2:7],” to be fed by his own milk by birth. This is because the diffusion of the Christian faith is made broader by the example of absolute freedom, with a spontaneous conversion rather than an imprisonment during childhood, when [someone] is incapable of independent thought of which once in adulthood repent, against the scandal of each one.

But a threat of excommunication has been published [in the ghetto] and the truth has not yet emerged? “Then he is not Jewish,” someone may sustain, that where is matter of declaring herself adulterous and infame a woman cannot be convinced by whatever excommunication. In secrecy we are sure also of the crime, if we risk the censorship of the excommunication [that is] of the crime is clearly a punishment. Out of excommunication the punishment is uncertain, concealed by the sky not the tribunals. Who will be the one, who in order to escape a small, uncertain
punishment, which he can hope be moderate for the divine mercy, willingly will expose him or herself to a big one, inevitable? Usually the excommunications promise secrecy to the guilty, but those pieces of information that would derive from this excommunication, could not be communicated to Your Excellencies. Thus there is no wonder that being unsure the offender to remain anonymous, had neglected the excommunication itself, which is a weapon, and which deprived of secrecy does have unimaginable force.

Once Princess Tamar, daughter of King David, was raped by the incontinence of her brother Amnon, who then, horrified by his own excess, could not tolerate the presence of the poor raped sister anymore and he converted love in hatred, and could not anymore tolerate her at his presence, thus drove her away, “so that the hatred wherewith he hated her was greater than the love with which he had loved her before. And Ammon said to her: Arise, and get thee gone.” [Samuel 2, 13:15]. But she replied: “There is no reason to drive me away like this, which this is even worse than the other crime you perpetrated on me. She answered him: “The evil which now thou dost against me [Samuel 2, 13:16].” The poor princess considered more the fact that the offense would be publicly known than the offense itself. That girl raped incestuously remained quiet, expelled and ashamed was not capable to understand by herself, but lacerated herself and furious exclaimed as possessed by the demons, “Then his servant thrust her out: and shut the door after her. And she put ashes on her head, and rent her long robe and laid her hands upon her head, and went on crying.” [Samuel 2, 13:18-19]. This explains why the threat of excommunication and a thousand other scruples are much less persuasive than public knowledge of the crime.

Indeed, it will be an act of their [of your Excellences’] uncorrupted knowledge to not oblige the parents of this miserable child to ruin their name, and maybe is of help, when they believed to have covered themselves with attention to the common and practiced solution. This will be an effect of exemplary justice toward the baby and mercy toward the parents. Gratie. Today 8 July 1691. Presented by the General Leaders of the Jews of this city.
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Supplica ai Catteveri del 18 luglio 1691.

[f. 148 r.] « Serenissima Repubblica che favorita dalla Maestà Divina per l’eterna sua duratione sino da qui suoi natali d’una vera libertà non mai interrotta, per la quale s’è resa conspicua e insignè trà tutti li Dominij dell’universo, e s’è compiacciuta comunicare con ragioneevole misura questo prezioso dono a suoi vassali, ond’è devenuta l’inclita città di Venezia unico Tempio per asilo di libertà al genere humano.

Illustriissimi et Eccelentissimi Cattaveri la Natione Hebrea, humilissima serva di VV. EE., per somma gratia del suo pietosissimo Prencipe, si ricovra per lungo tratto de secoli sotto questo Clementissimo Governo, con libertà di vivere secondo i riti e consuetudini loro, e con il libero possesso de suoi propri figlioli e santissime leggi di questa serenissima Patria deveriano moderare il senso e il lusso, di modo che, contento l'Hebreo nelle cose di Venere de piaceri honesti, e permessi dalle sue regole, procreasse solo legittimi parti, nel qual caso non vi sarebbe occasione d'apportar tedio alle EE.VV. Ma perché in un numero di 3000 anime d'ogni età, e d'ogni sesso, non è possibile che non succedano de’ parti spurij, ne’ quali il riguardo della riputatione obliga nasconderli, come La pietà de Popoli in ogni Loco ha stabilito d’esporli, sono esposti i Bambini secretamente sono accolti, e con indefessa applicatione educati como vuole la Giustizia, ne la benignità del Principe che all’Hebreo venga denegato quanto opportuno remedio a suoi trascorsi e alla salvezza di innocenti bambini, perché con i loro vagiti, non siano Trombe de’ vituperij de’ Genitori. In questo caso vi ha sempre supplito la carita de Cappi di Ghetto per che esposti alle lor case, ó vicino a quelle, l'infanti stessi sono stati accolti e con spese dell'Universita nutriti. Vivono nel Ghetto moltissimi illegittimi huomini che non conoscono Padre, allevati dalla carita de Cappi; ne sono stati sempre, ve ne sono hoggidi ancora; chi li leva questo rifuggio succede di peggio: possono le madri strozzare i bambini, gettarli ne' condotti; Può essere ch’una donzella stuprata, una maritata che sia incorsa in adulterio si dia da se la morte, più tosto che publicarsi. Eccellenti Signori per Carità stimano giusto negarle questo remedio, non lo persuase la loro Pietà suppongano VV. EE. un’hebrea caduta in
errore, che cosa poteva fare di piu per coprirsi e salvare il figliolo alla Religione, a
se stessa, al Padre, di di quello che ha fatto questa per la quale La supplichiamo
genuflessi.
Pone il bambino in una sporta, di notte tempo, quando il Ghetto è chiuso, sopra o’
a piedi d’una scala in Ghetto, vicina alle stanze di doi Cappi; vi si attaca una Carta
detta Mezuzà, di devotione hebraica attorno; vi si scrive un boletino in lingua
hebraica tra le fascie che dice è nato questo figliolino il giorno di mercoledì alli 7 [f.
148 v.] del mese di Tamuz e questo per il riguardo della Circoncisione. Si ritrova
una donna pronta che lo conserva e accoglie, e vi sara dubio che non sia hebreo?
Illustrissime Eccelenze, vorran levarlo ai genitori e mandarlo alla Pietà? All’Hospitale?
E se il Padre è ricco e da qui a qualche anno Lo volesse raccogliere, non vengono l’EE.VV. a farle perdere la robba perchè resti miserabile; se la madre
hora è adultera ò che non ha sicura la vita di publicarsi madre di quel bambino
mutandosi lo stato delle cose non può beneficarlo, e che colpa hà quell’innocente
d’esserne privato.
L'incontaminata giustitia di VV. EE. deve persuadersi che questo e Hebreo, così di
Padre come di madre Hebra. E s’il Padre fosse Christiano lo havrebbe portato alla
Pieta liberamente; non li poneva il boletino, non la devotione hebraica; Mà a che
proposito lasciare in Ghetto, alle miserie, un figliolo che puo essere posto in loco
comodo e al contro alla sua Religione?
Sarà dunque il Padre hebreo certo. Se anco la madre e Hebra, non v'ha dubio. Sara
la madre Christiana e il Padre Hebro? Ecc.mi Padri, come puo venire in Ghetto?
La madre o lo tenerà, o lo manderà all’Hospitale. Ma’ possino imaginarsi
l’Eccellenze Vostre che l’Hebreo facesse un Criminale peggiore del primo? Che si
esponesse alla disventura d’una Donna Christiana di mala vita? Che puo’ ogni
momento pretendersi o farlo reo di delitto capitale, non è questo supposto, e che
ponsi essere concepito dalle menti sublimi di VV. EE.
Ma se ciò fosse, si sarebbe di già allo strepito di questo negotio scoperto, e ne
havrebbe il Tribunale di VV. EE. sentito dalla madre il ricorso.
Sappino Ecc.mi Signori che come l'Hebreo è tenace nell'osservanza della sua
Religione, così non ha instituito propagarla a stranieri. Anzi Ruth moabita viene
persuasa dalla suocera di ritornare alla sua gente, all'osservanza de suoi ritti “en
reversa est cognata tua ad populum suum et ad deos suos vade cum ea [Ruth 1:15]”
onde l'Hebreo non s'havera preso questo imbroglio di portare in Ghetto un
fanciullo che fosse nato fuori del Ghetto.
Ma’ tanto meno quanto che se la madre è Christiana, tutto che il Padre fosse
hebreo, non e il fanciullo in stato d'essere ricevuto tra li Hebrei, e questo decide il
punto controverso e toglie ogni dubio, ancor che lontano, che possi essere stato
trasportato questo bambino nel Ghetto, e non nato nel Ghetto stesso, Perché
conforme li riti nostri, un figlio procreato con Donna straniera viene escluso dalla
nostra e rimane nella Religione della madre e per sviscerarne la conscienza di VV.
EE. di questa verità, potressimo addurre le decisioni concordi de nostri Rabbini,
ma’ basta che si degnino riflettere al famosissimo caso seguito, e registrato nella Sacra Scrittura in Esdra [Ezra] al Capitolo 9° e X°, che non lascia [f. 149 r] luoco a difficolta alcuna.

Ritornati i nostri dalla Captività di Babilonia con permissione di Ciro di Persia a Jerusalem sotto la direttione dello stesso Esdrà, vengono accusati d’havere nella Captività admesse alcune donne straniere e procreati molti figli spuri, e ché in quanto fossero rei principali della Natione; Ecco l’accusa. “Accesserunt ad me principes dicentes non est separatus populus Israel et sacerdotes et Levitae a populis terrarum et […] tulerunt enim de filiabus eorum sibi et filiiis suis et commiscuerunt semen sanctum cum populis terrarum manus etiam principum et magistratum fuit in transgressione hac prima [Ezra 9:1-2]” Li Principi, Li Magistrati hanno figli di Donne Straniere.

Doppo una efficacissima oratione, fatta al Popolo di rimprovero, si delibera per rimedio con universale acclamatione, di essigliare le Donne straniere perpetuamente con li loro figli e escluderli dalla Natione. E “sic ergo orante Ezra et inplorante eo et flente et iacente ante templum Dei collectus est ad eum de Israhel coetus grandis nimis virorum et mulierum puerorumque et flevit populus multo fletu et respondit Sechenia filius Iehihel de filiis Helam et dixit Ezrae nos praevaricati sumus in Deum nostrum et duximus uxores alienigenas de populis terrae et nunc si est paenitentia Israel super hoc percutiamus foedus cum Deo nostro ut proiciamus universas uxores et eos qui de his nati sunt iuxta voluntatem Domini et eorum qui timent praeciptum Dei nostri secundum legem fiat [Ezra 10:1-3]”. Così fu fatto e furono esclusi da tutte le Famiglie gli figli spuri nati da Donne straniere. Non può dunque in maniera alcuna questo fanciullo essere da altra madre che di Donna hebrea.

Sono le EE. VV. tenute d'esercitare Giustitia. Questo fanciullo è di Ghetto. Quella donna l’ha ricevuto dalla Madre. Tace per servarle fede; Non c'e probabilità che persuada il contrario. Il favore della Religione non hà d'alterare l'animi retti e giusti di VV. EE.; la Christiana Pieta ha’ sempre havuto per instituto fondamentale di propagare la sua fede all' altre Nationi e pure molti somi Pontefici e tutti li Teologhi unanemi prohibiscono e decidono che “Pueri Judeorum et aliorum infidelium non sunt baptizandi invitis Parentibus”, e decide Tomaso d'Aquino "Nemini facienda est injuria, fieret autem Judaeis injuria si eorum filii [f. 149 v.] baptizarentur eis invitis.” Se dunque tanti Santi Padri antepongono il rispetto della Giustizia a quello della Religione, VV. EE. hano da secondare questo esempio perché come dice il medesimo San Tommaso [Unde] contra iustitiam naturalem esset si puer, antequam habeat usum rationis, a cura parentum subtrahatur, vel de eo aliquid ordinetur invitis parentibus. Et tunc est inducendus ad fidem non coactione, sed persuasione [Thomas Aquinas, Summa Theologica, II, 2, article 12].

Questo è Hebreo certo, per tutte le circostanze; un Bambino hebreo, esposto in Ghetto di notte tempo. Con una carta di Devotiohebraica, scritta in membrana, con molte cerimonie, con un boletino e si in idioma hebraico, denota il punto della
nascita dalle fascie; Ritrovato da Donna hebraea l’ha offerito a Cappi, si presentava sotto i riflessi di VV. EE. Hebreo per chi lo ritrova, Hebreo per il loco, per il tempo, e per tutte le Circostanze che vengono giustificate dalla formazione al Processo; Tale speriamo, che ebbe la Giustitia Considerarlo, sino ch’appariska Prova in contrario, e Che venga da Testimonij giurati deposito, che prima d’essere in Ghetto fosse fuori, o’ che sia stato trasportato in qualche luoco, o che quei segni, siano stati con arteficio apposti e questo deve essere provato a chiare note, per potere havere motivo la giustizia e incontaminata anima del Giudice, da toglierli quel stato in cui è essendo deciso per le leggi canoniche in C. Si expositus 87 dicet il nostro caso preciso, “Si expositus ante ecclesiam cuiusquam fuerit miseratione collectus, contestationis ponat epistolam: et si is qui collectus est intra decem dies quaesitus agnitus non fuerit, securus habeat qui collegit”. Non apparendo dunque in contrario, deve esser lasciato al pacifico processo de Cappi di Ghetto che in questo Caso Le sono Padri; così dicendo la Legge Textu[s] in Pari de Regulis in 6° [Liber Sextus decretarlium, lib. V, tit. 12, De Regulis Iuris Canonici, vol. 2, Reg. 65, col. 1124], “Quod in pari [in the original, delicto vel] causa potior est Conditio Possidentis”.


Perché la Principessa non dubia che sia giusto e per propagare la Religione non se lo tiene? Se “de infantibus Hebreorum est hic”; Non haveva il figliolo il boletino hebraico, che dicesse è nato il tal giorno, Haveva tre mesi e pure erano li bambini hebrei all’hora condannati da passar dalla Culla alla Tomba, subito nati, ne poteva esser di tre mesi, ad ogni modo “de Infantibus Hebreorum est hic”. Non haveva quel fanciulino una Carta di devotione, solita tenersi da Hebrei, e pure “de Infantibus Hebreorum est hic”; Non era in Ghetto di notte tempo, né in un canale publico, “quae cum que vidisset Phigellarum in Papirione quae cum vidisset fiscellam in papyrione [Exodus 2:5]”, e pure “de infantibus Hebreorum est hic”. Haveva compassione la reggia Donzella del bambino, “Cernensque in ea parvulum vagientem, miserta eius est” [Exodus 2:6]. Non però la compassione la indusse di cambiarli lo stato da un schiavo ad un Principe, perché la Giustitia vi repugnava, quale vuole che ad ogn’uno si dia il suo “de infantibus Hebraeorum est”.
Le paga la balia e la vuol Hebra, [respondit] ego tibi dabo mercedem tuam suscepit mulier et nutrivit puerum adultumque tradidit filiae Pharaonis respondit vade [Exodus 2:9-10], perché ogni congettura concludeva che “de infantibus hebreorum est hic”. Principi Augusti, siete voi Ecc.mi Cattaveri che delegati dall’Ecc.mo Senato al nostro governo, ci assistete con tanta Carità, e con quell’esemplare Giustizia, hereditata da vostri Gloriosi progenitori. Quando la consienza è persuasa per tutte le circostanze e che “de infantibus hebreorum est hic”, non si lascino portare dal zelo di Religione, a voler che sij nutrito d ’al tro latte, che dal suo, [f. 150 v.] Ma’ permettino che chiamino “hebraeam mulierem quae nutrire possit infantulum” [Exodus 2:7], che si notrisca del suo natio latte, perché la diffusione della Christiana fede, si rende più ampia con l'esempio di una liberta assoluta, con una spontanea conversion che non si facci con detenzione in eta infantile, in capace di cognizione del che fatti adulti, si pentino, contro scandalo d’ogn’uno.

Mà s’è pubblicata una scomunica e non si e manifestato il vero? Dunque non è Hebreo dirà forse alcuno, che de dove si tratta di publicarsi adultera, et infame una Donna, ora non ci è riguardo di scomunica che persuada. Nel se creto siamo sicuri anche del delitto, se incoriamo nella censura della scomunica, del delitto è castigo certo palese, L’infamia perpetua e figli che perder la vita da mag.si senza rimedio, quando sia pubblico. Della scomunica è castigo incerto, occulto dal cielo non da Tribunali. Chi sarà quello, che per fuggire una pena piccola incerta che puo’ sperarsi moderata della misericordia divina, volontariamente si esponerà a grande inevitabile. Le scomuniche per ordinario promettono secretezza, a Rei, ma’ quelle notizie che da questa scomunica fossero risultate, non potevano non essere partecipate alle VV. EE., Onde non è meraviglia che non essendo sicuri li Rei di restare occulti, habbino negletta la scomunica stessa, che è un’Arma, e che toltale la secretezza non ha forza immaginabile.

Violata la Principessa Tamar, figlia del Re David, dall'incontinenza del fratello Ammon, questo inhoridito dall'enormità dell'eccesso non può più sopportare la presenza della povera sorella stuprata se li converte L’amor in odio, non la può tolerare più alla sua presenza, La scaccia da se, “niris ita ut maius esset odium quo oderat eam amore quo ante fecisti [Samuel 2, 13:15]”. Ma questa risponde “non vi è già cagione di così cacciarmi, che è un male maggiore di quell’altro che tu mi hai fatto quae respondit ei maius est hoc malum quod nunc agis adversum me quam quod ante fecisti [Samuel 2, 13:16]”. Piu' stima la [f. 151 r.] povera Principessa la pubblicazione dell'infamia, dell'infamia stessa. Quella che stuprata incestuosamente sta quieta; Scacciata e palesata non puo’ capire in se medesima, Mâ come forsenata si squarcia e furiosa esclamava come indemoniata, “eiecit itaque eam minister illius foras clausitque fores post eam and quae aspergens cinerem capiti suo scissa talari tunica inpositisque manibus super caput suum ibat ingrediens et clamans [Samuel 2, 13:18-19]”. Ecco la raggione.
perche censura di scomunica, ne mille altri scrupoli di conscienza, sono molto meno della pubblicazione del delitto.
Sara dunque atto della loro incorrotta sapienza di non obligare li Genitori di questo infelice a precipitare la loro riputazione e forse l’aiuta, quando hanno creduto coprirsi con sicurezza sotto il comune e praticato ricovero. Sara questo un effetto d'esemplare giustizia con l'infante, e di carità con li Parenti. Gratie. Adi 18 luglio 1691 - Presentata da Cappi Generali de gl'Hebrei di questa Città»
Mantua 16 of January 1693
We the undersigned declare, as we have been requested, that some months ago arrived in this city (Mantua) from Nomi, Chella, the daughter of Vivian Levi, a young, destitute girl, who for many years was a servant in Nomi, in the house of Mister Sanson Sacerdote, and because it was found she was pregnant, after many negotiations and confrontations with the very same Sanson on the side of our community even if he was still insisting he was not responsible for the pregnancy, it was agreed on and decided that the girl would be escorted back to Nomi at Sacerdote’s expense. [This was decided] in order that this our community would never have to sustain any supplement or any expense because of the future birth, assuring Sansone with the tocco della mano, which among us is like an oath, in order to absolve the very same community in anything and from anything, and according to this agreement, she was sent there [back to Nomi] and we assure that this is the truth, so we declare and we are ready to put an oath in order to confirm our act.
Leone Brilli, I confirm what is above.
Nacman de Angelis
Li 16 gennaio 1693 Mantova
Facciamo fede noi sottoscritti e sì richiesti come à mesi passati capitò da Nomi in questa Città, Chella di Vivian Levi, giovine povera, che per molti anni servi in Nomi in casa del Signor Sanson Saccerdote, e trovata quella gravida, doppo molti discorsi e dibattimenti fatti dà noi col medesimo Sanson per l’Università nostra, ancor ch’egli affermasse non esser gravida di lui, si concertò e stabili che si facesse ricondur à Nomi à spese d’esso Sacerdotte affin che questa nostra Università non havesse maj a soccombere ad aggravio, ò spesa alcuna à causa del parto che dovesse nascere, pigliando egli in sè col tocco della mano, che tra noi vale comme giuramento à sollevare la medesima università in tutto, et per tutto, et in ordine a tal concerto, colà fù da noi mandata e per essere tal la precisa verità, così attestiamo per corroborarlo col nostro giuramento occorrendo,
Leone Brilli affermo quanto sopra
Nacman De Angelis
Illicit Sex and Law in Early-Modern Italian Ghettos

Federica Francesconi, The College of Idaho

Archivio della Comunità ebraica di Modena, Busta 71 *Stupri provvidenze date in casi simili, fascicolo n. 2.* “Accademia di Mantova che dichiara indissolubile il stato matrimoniale contratto dal Dottore Moisè Vaigler colla Rachelle Arezzi di Modena,” 14 dicembre 1751.

14 of December, 1751 – Accademia in Mantua that declared indissoluble the matrimonial status stipulated by Doctor Moisè Vaigler with Rachelle Arezzi from Modena.

In the suit between Mrs. Rachel Arezzi from Modena on the one hand and Mr. Doctor Moisè Vaigler [sic] on the other, once the positions were explained in the trial by the two respective attorneys, the Excellencies Mister Rabbi Josef Galico and Mister Rabbi Zara Jacob Sacerdoti, being also seen, and examined with much attention the documentation included and in deep consideration of what was necessary, invoking, we determine and rule that Vailer [sic] not be permitted to annul against aforementioned Rachel’s will the marriage stipulated with her. We declare this marriage absolutely valid, [Vaigler] being obliged to provide the support for the aforementioned wife and other obligations as such that are incumbent on every husband toward his wife, in agreement with the typical ketubah, declaring in addition that the son delivered by the very same Rachel be recognized as the son of the very same Vaigler, and this, in spite of the opposition advanced by the very same Vaigler, and in his name, is how it is.

In our Accademia in Mantua, December 14, 1751.
Leon Mendola
Leon Finzi
Aron Cases

Today 14 the very same
I, the undersigned, delivered an identical document written sua manu by the aforementioned excellent Mister Rabbi Zara, In fede Codiel Orefice shammash.
Modena December 19, 1751
I, the undersigned, assure that I have collected and copied the above sentence from an original that arrived from Modena word for word.
Abram Vita Graziani in the Holy Community of Modena.
Nella causa vertente fra la Signora Rachel Arezzi di Modona da una parte e il Signor Dottor Moisè Vaigler dall’altra, sentite le cose espostesi in Giudizio contradditorio dalli rispettivi loro procuratori eccellenze S. R. Josef Galico e S. R. Zara Jacob Sacerdoti, come anche viste, e ponderate con tutta attenzione le carte presentate e considerato maturamente quanto occorreva, Invocandosi, determiniamo e sentenziamo, che non possa il Vailer sciogliere contro il volere della detta Rachel il matrimonio contratto seco lei quale Dichiariamo di tutta validità, dovendo soccombere per l’avvenire al mantenimento di detta moglie, e a tutt’altro, tanto quanto è obbligato ogni marito verso la moglie, a norma dell’usitata chedubà, dichiarando in oltre, che il maschio partorito da essa Rachel debba essere riconosciuto per Figlio di esso Vailer, e tutto ciò, non ostante l’opposto dal Vailer medesimo, ed in suo nome, come così.
Dalla Nostra Accademia li 14 dicembre 1751 in Mantova.
Leon Mendola
Leon Finzi
Aron Cases

Adì 14 detto
Io sottoscritto hò consegnato una similla in propria mane del detto Eccellente Sig. R. Zara Sacerdote, In fede Codiel Oreficie Sagrestano.
Modena li 19 dicembre 1751
Faccio piena fede io sottoscritto di aver colazionato e copiato la di sopra sentenza d’un Urigginale venuto da Mantova Verbo ad Verbo,
Abram Vita Graziani nella santa comunità [ebraico] di Modena.
Illicit Sex and Law in Early-Modern Italian Ghettos

Federica Francesconi, The College of Idaho

Archivio della Comunità ebraica di Modena, Busta 71 Stupri provvidenze date in casi simili, fascicolo n. 3 Obbligazione d’Abram Gallico di sposare l’Ester Donati Vedova Vigevani per aver avuto commercio seco lei, 29 aprile 1750

Today 29 of April 1750

Having knowledge of a dishonest intercourse between Abram Gallico from Carpi and Ester Ventura of the deceased Leon Vigevani, in a way that the very same woman is supposed to be pregnant by the aforementioned Abram, who has been called by the illustrious representants of the vaad and asked if he is willing to cover or make honest that relation of his by marrying, making legitimate at the same time the child that will be or would be born.

[Gallico] answered that, being the aforementioned Ester is truly pregnant and that marrying her is the right thing to do, declared his obligation as well as the receiving of the stipulated dowry, according to her wedding with her late first husband, and so being Pellegrino Donati here present, brother of the aforementioned Ester, he assumes this obligation on the occasion of the wedding for the sum declared in the first dowry contract. In addition, the aforementioned Abram Gallico promises and assures that even if she [Ester] were not pregnant and therefore he would not be obliged to marry her according to the law, he would be happy to marry her, as long as from the Kahal Kadosh [Jewish community] the issur [permission] will be given, and for the commitment to which is expressed here in this act Aron Gallico, brother of the aforementioned Abram with all his goods and for condition of everything there [contained in the act] expressed with the tocco del drappo, according to the Jewish custom kizur kinian and tocco della mano instead of a longer oath taken by both parts, Pellegrino Donati on one side and the aforementioned brothers [Abram and Aron Gallico] on the other for what concerns each part respectively and in the presence of two witnesses.

I, Abramino Padoa, one of the witnesses as above.
I, Paris Sanguinetti, one of the witnesses.
I, Abram Gallico, declare what is above.
I, Aron Gallico, declare what is above.
I, Pellegrino Donati, affirm.
Archivio della Comunità ebraica di Modena, Busta 71 Stupri provvidenze date in casi simili, fascicolo n. 3 Obbligazione d’Abram Gallico di sposare l’Ester Donati Vedova Vigevani per aver avuto commercio seco lei, 29 aprile 1750

Adì 29 Aprile 1750
Essendo saputo trascorso di disonestà tra Abram Gallico di Carpi con l’Ester Ventura del fù Leon Vigevani, in modo tale, che viensi la medesima supposta in cinta dal predetto Abram il quale chiamatosi dalli Illustri rappresentanti del vaad per instando da lui se sia disposto di coprire o onestare questo suo trascorso col matrimonio, ligitimando nello stesso tempo il parto che sarà ò fosse per nascere.
Rispose che trovandosi veramente la ditta Ester incinta e volendo il giusto di sposarla, sarà sempre pronto, affermando di obbligo suo come che li venghi somministrat la preclusa somma di dote, a tenore di suo maritaggio col defunto primo letto, come così si obbliga Pellegrino Donati qui presente fratello della antedetta Ester, in occasione del matrimonio la somma pronunziata nell’Istromento primo dotalis, in oltre il suddetto Abram Gallico promette, e s’obbliga quando anco non fosse incinta, e che delle leggi non vi fosse l’obbligo, e contento di sposarla, sempre che dal kahal kadosh li venga qui permesso il issur, e per la manutenzionedi quanto sta espresso nel presente foglio toccante l’asserito il medesimo, s’obbliga il detto Abram Gallico fratello dell’antedetto Abram con tutti li suoi Beni e per condizione di tutto li espresso col tocco del drappo secondo l’uso ebraico dinominato kizur kinian e toco della mano in luoco di giuramento grave legale d’ambi le parte esso e da Pellegrino Donati per una, e l’antedetti fratelli per l’altra parte per quello spetta à ciascheduna di essa rispetivamente ed alla presenza di due testimonij.
Io Abramino Padoa uno de Testimonij ut sopra.
Io Paris Sanguinetti uno di Testimonij.
Io Abram Gallico affermo quanto sopra.
Io Aron Gallico affermo quanto sopra.
Pellgrino Donati affermo.
Introduction:

The late seventeenth and early eighteenth centuries marked a significant period in the transformation of scientific scholarship. The Latin philosophical tradition’s dominance waned as empirical methods gained credence. University educated men of science began to trust information actually seen and tested more than knowledge contained in books, especially ancient ones. The larger implications of this transformation -- the questioning of the authority of the written word of the Bible and the accompanying narrative of the origins of the universe -- have received significant scholarly attention. The smaller shifts in the way individuals weighed textual and empirical sources of authority, however, has been largely overlooked. The work of Italian rabbi and physician Isaac Lampronti (1679-1756), whose years as a student and teacher overlapped with these shifting grounds, provides a significant entry point into the subject. Lampronti saw the rabbinic and scientific systems as fundamentally compatible and accordingly employed his personal medical knowledge throughout his encyclopedia of Jewish law, the Pahad Yitzhak. Examination of two passages from his work shows both the influence of empirical authority on rabbinic scholarship and the continued importance of ancient texts, even non-Jewish ones. Through such analysis, historians can better understand the influence and reach of the new epistemology and the complex hierarchies of authority that emerged in the era.

Bibliography:

Useful studies on observation, experience, and empiricism in the early modern period include:


For more on science and Jewish law in the early modern period see:

