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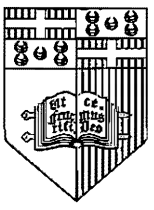

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AMICITIA EXTENDITUR AD EXTRANEOS MARRIAGE LAW AND THE CONCEPT OF CITIZENSHIP (1563–1789)

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This paper analyses marriage as a means by which strangers were accepted within the family. The primary sources consulted are works generally written by post-Tridentine Jesuit theologians. In medieval times, marriage represented a tellurian union whose primary objective was the procreation of offspring. A set of consanguinity regulations had been devised by the Church to prevent the consummation of marriage between kin groups and safeguard the health of infants Medieval society allowed divorce to husbands whose wives were believed unable to produce an heir. The adamant stand taken by the Catholic Church at the Council of Trent in support of marital union and against divorce undermined the importance of fertility in marriage. This stance jeopardised the Church's position *vis-à-vis* Lutheran and other protestant beliefs. This newly-emerging concept of marriage did not hinder the Catholic Church from continuing to sustain its belief in this union as friendship extended to strangers. The universality given to the marriage ritual by the Catholic Church contrasted with political developments in Europe. What appeared to be contradictory philosophical positions (the search for autonomy by emerging European states against the universality of the Church) would enjoy a short-lived peaceful co-existence in eighteenth-century Malta, where the principles of 'citizenship' would find a privileged place in Church marriage acts.

By the end of the 1960s, in Western Europe, the traditional concept of the family was going through a grave crisis. In the following decade, a number of European scholars, intrigued by this crisis, embarked on different projects to study the family and family households in the past.[1] The institution of marriage attracted an important share of this research. Historians such as Lawrence Stone[2] and demographic analysts of the calibre of Louis Henry,[3] dissected, in different ways, marital forms and concepts and explored aspects of nuptiality, betrothals and marriage rituals. One cardinal point emerged uncontested in these studies: marriage was the rite of passage to the formation of a new family.

In his book, *Families in Former Times*, J. P. Flandrin evaluated the encomium of French theological writings on marriage practices in the past. The present paper will follow Flandrin's footsteps, with the difference that it will primarily focus on the post-Tridentine era. Jesuit theological writings have supplied the framework for this study. Their works had great success all over the Catholic states of the Mediterranean, conditioning the marital lives of many families. The voluminous works of Joannes Clericatus, R.V. Catalani and Tommaso Sanchez on the subject of marriage, often running into hundreds of pages of Latin text, became a point of reference for the Church's marital theology. The teachings of these church fathers, in particular the work of Sanchez, became a Church canon and by the eighteenth century, his work was the real force in governing the marriage ritual in the Catholic World. It was probably not the intention of Sanchez that his work become a Church canon in marital affairs. His main purpose was to stimulate a discussion. He specifically called his work a discussion *(disputationes)*. However, what was intended to be a discussion in the seventeenth century had become a code of moral theology by the next. When the Jesuit scholar Joannes Clericatus compiled a new corpus of marriage laws,[4] he based his study on Sanchez's *opus magnum*, but forewarned his readers that he was setting out 'decisions' rather than seeking to promote 'discussions'.

In the day-to-day practice of the Church, marital statutes, as codified in civil and canon code, and natural and divine law, were not the ultimate binding decrees. What was binding was the interpretation given by theologians and canonists, in particular the above-mentioned Jesuit fathers, of these laws.[5] This paper will try to analyse their interpretations in relation to inter-ethnic marriages and in particular, on how the Church's canon law helped an individual to integrate in an alien environment. Finally the paper will try to review the effects of Church marriage legislation and its relevance to the island of Malta.

The Church's marriage laws had their origins in the Roman legal system as codified by Justinian, but many practices and precepts are much older. In Roman times, marriage was solely a tellurian union, legally governed by the *lex civilis* and the *lex naturale*. This situation remained unchanged during the first decades of Christianity. It was only towards the end of the fourth century that the Christian morality on marriage, particularly Tertillian theology on the subject, began to gain ground.[6] The Christian argument that marriage binds the couple with God, a concept that was absent among the Romans, metamorphosed into a mirror image of the unity of Christ with his Church.[7] In his book, *The Body and*

Society, Peter Brown traces the origins of this meiosis to the first century of the Church. In the post-Tridentine period, this imagery became a driving force in the general discussion on marriage, and theologians such as Francis Sylvius[8] and Joannes Clericatus,[9] put the unity of Christ and his Church at the centre of their 'eschatological' arguments whenever discussing the principles of a valid or invalid marriage.

Brown discusses the origins of the importance of celibacy in the Christian religion. Basing his arguments on early Christian writings, he explores how celibacy, or better still virginity and sexual repudiation assumed an intrinsic value among different Christian groups in the first three centuries. It is interesting to point out that at this period in time, marriage lacked any aura of sanctity. Instead, it was relegated by Christians to a social function, and seen simply as a biological means by which the Christian 'race' could survive and continue to expand.[10]

In medieval times, the Church viewed marital copulation mainly as a means towards procreation. This principle was at the base of the Roman marriage, where nuptials were primarily undertaken with the sole aim of generating heirs. On the theological level, the procreation of children was given decisive importance by the two most influential medieval scholars, Saint Augustine and Thomas Aquinus. Both had adopted the Hebrew and Roman concept of marriage and considered procreation to be the main objective of married life.[11] The scholastic theologians gave the right of possession to the married partners over each other's body, and to achieve this objective, even considered rape licit in marriage. It was only in the post-Tridentine era, that Gonzales, the influential Jesuit theologian on marital affairs, tried to remedy matters by making sexual copulation conditional on the equal consent of both partners.[12] This theological interference in private marital affairs reflected the larger change in marriage's *raison d'être* that came with the Council of Trent. In medieval times the reason for marriage lay in procreation, and even violent copulation was justified, especially if pursued with a view to the achievement of this aim. What was most worrying for the post-Tridentine theologians was the willingness of medieval men to dissolve a marriage if the wife failed to generate offspring.[13]

The importance attached in medieval times to the procreation of children was again manifested in the post-Tridentine marriage and, as was the case in the Middle Ages, it would continue to condition the choice of marriage partners. The post-Tridentine theologian R. V. Catalani, reworking this ancient idea, defined marriage as *amicitia extenditur ad extraneos*,[14] i.e., friendship extended to non-family members. The Church discouraged

marriages within the same family on the principle that such unions went against the laws of God and nature. In reality, these theological preoccupations reflected, on the one hand, a wide social awareness concerning the high maternity and child risks associated with marriage between siblings or close relatives. On the other hand, opening marriage to every male, irrespective of religious creed, could lead to the loss of Christian faith on the part of the wife and her offspring. The wives and their children, following Pauline moral theology, were expected to obey their husband's will in everything. The only moral obligation versed onto the husband was to show respect to his spouse.

The early fourth-century Church was particularly concerned with the importance of female submission to male authority.[15] The most influential Church theologian of the late Classical Times, Tertullian, opposed the idea of a woman marrying a man not of the same Christian faith. 'How can a woman serve two masters', he argued, 'God and her husband, if the latter is a pagan? If she abides by the will of her husband, her moral values are pagan ... she cannot please God if she is tied to one of Satan's servants.'[16] The Church insisted that Christians should marry other Christians and avoid marrying Jews or infidels. However, marriage to non-Christians remained popular. The early Church had to come to terms with this situation; on the one hand it condemned such unions, on the other, it accepted them as valid.[17]

Once the Christian communities increased in number and their creed slowly became the religion of the major European kingdoms, the Church adapted itself to this new situation and subtly revised its views on the choice of marriage companions. It was during the High Middle Ages that the Church exerted its greatest effort in putting into practice the principle of marriage as *amicitia extenditur ad extraneos*. In 1198, marrying a relative up to the seventh degree of consanguinity in transversal line needed a dispensation.[18] Spiritual affinity between the spouses was forbidden, eliminating the chances of marriages between godparents and godchildren. In practical terms, inhabitants of hamlets or tightly-knit communities had to look to other villages to marry, unless they wanted to incur the expenses of a dispensation. The implementation of these tight regulations failed to have the desired effect. The medieval system of communications, together with the sense of autonomy exercised by many bishoprics, made evasion easy. Matters were further complicated by the fact that many priests and villagers remained ignorant of the consanguine regulations with the result that families could continue seeking marriage within close kin groups without incurring ecclesiastical censorship. Many could only afford to

marry in their inner social circle, while others, tied by social and family customs, continued to consider marriage within their own kin group as conducive to both economic and social security. In 1215, Innocent III, at the Lateran Council, succumbed to social pressure and legislated new ordinances regarding ties of consanguinity, which subsequently acquired greater prescriptive power. Clearer distinctions were made between the direct and transversal line. Thus, the marriage of a child with one of its direct ancestors was prohibited while, on the transversal line, dispensation was needed up to the fourth degree.[19] Trent reaffirmed these ordinances, but failed to solve the Lateran Council's dilemma between the well being of the child and social exigencies, to the extent, that this issue was still pending in the post-Tridentine period. The seventeenth-century Church was still accepting marriages between blood relatives for the preservation of the family inheritance.[20] In the light of the fact that the Church bowed to social and political pressures, one can rightly assert that the efforts to broaden the marriage market were only partially successful.

In the sixteenth century, the medieval principle of the marriage bond as a socially, legally and religiously circumscribed means of procreation, was undermined. The re-introduction of divorce in Europe made any discourse on the concept of *proles* (offspring) apprehensive, as failure to produce children had been the principal reason for which divorce had been granted in the medieval period. On the theological level, the Jesuits' School of Salamancan Theology took a stand against the medieval thought that the procreation of children constituted the *raison d'être* of marriage. If procreation was at the basis of the marriage bond, the arguments brought out by various protestant preachers in favour of divorce found a receptive audience in many parts of Europe. Divorce risked becoming permissible to sterile families, as had been the case in the Late Middle Ages.[21] And the danger was real. Medieval cases of divorce embarrassed the Jesuit theologian Clericatus, who had to make an unavoidable reference to them in his academic discussion on the subject.[22]

The Catholic Church went on the offensive by enacting laws restricting family dissolution. The right of granting separations was made to rest solely with the Ecclesiastical Courts. Parish priests were held responsible for the supervision of those individuals who left their family household without the bishop's authorisation. A list of names of those living a family life contrary to the pre-established Church canons was to be handed to the bishop during his pastoral visit. In addition, the parish priests were held responsible for the marriage ceremony and were obliged to note it in their parish records. The same Council also bound the secular princes to

abide by this matrimonial code.[23] As a consequence, the Church gained for the first time in its millenarian history an absolute say on all marital affairs within the Catholic world. Marriage in Catholic Europe lost its medieval significance of a private family matter and instead became a public affair. The necessary bureaucratic framework associated with the modern marriage system was thus set up. Marriages were registered by the parish priests, and subsequent offspring were also to be recorded.

In this sixteenth-century atmosphere where the old marriage principles appeared to be on the rocks, the Council fathers nevertheless fostered the medieval values of keeping marriage open to *extraneos*. No racial or ethnic formulae were devised regarding the marriageable spouses: the sole distinction remained religious. All marriage provisos were classified under the heading of the *Tametsi* ordinances. The partners had to be Roman Catholics, sexually potent, single and free. A minimum age limit was established: 12 for the bride and 14 for the groom, reflecting the will of the church to unite reason with sexual responsibilities.[24] A general consensus existed in sixteenth-century Europe that males were to be considered grown-ups at fourteen whereas the female age limit reflected the importance given to procreation in the Middle Ages. At Trent there was a consensus that at twelve a girl was to be considered a woman.[25] There was also a conscious effort by the Church's councillors at Trent to prevent spouses from marrying prematurely, sometimes even below the age of ten.[26]

The *Tametsi* ordinances also broached the matter of the marriage ritual. Edward Muir has expressed the social significance of the marriage ceremony in terms of a rite of passage that conducted an individual out of childhood into adulthood.[27] Marriage as a formal religious ritual was only conceptualised by the Church in 1439, and Muir insists that only after 1563 did Catholic marriages absolutely require the intervention of a priest.[28] The contexualisation of the marriage ceremony into a formal religious ritual brought about the creation of new religious norms, which on the one hand were meant to be a cultural and social compromise and on the other were a necessity to give muscle to the Church marriage. Independently of their original intentions, these regulations indirectly helped to extend kinship alliances. The first ordinance concerned the need for witnesses. At least two witnesses were required in order to have a valid marriage. R.V. Catalani affirms that the choice of witnesses was to be left open. Anybody could be one, independently of whether he was a relative or not of the bride and groom. Even infidels, vagabonds and minors were accepted. The only qualification was that whoever acted as a witness had to have reached the age of reason. Catalani, however, fails

to give an age limit. The only exceptions were the insane and Jews.[29] As had already been the case in the choice of godparents in baptism, the Church had created another social mechanism by which a family could extend its social network beyond the inner kin group.

The choice of the place of marriage was the second post-Tridentine regulation to have a direct relevance on the integration of strangers within a family circle. All the baptised members of the *Respublica Cristiana* were expected to marry in the parish of the bride.[30] This Church regulation was taking into consideration an important mobility factor. In the past, travelling was restricted mainly to men. Only a handful of women moved out of the confines of their town or village.[31] The majority of those females who did decide to travel formed part of a bigger migratory experience often falling within a family's decision to move.[32]

Marrying someone from outside the parish could be a risky business, as the groom could have already contracted marriage in another place. The Church instituted procedures to curtail such abuse. All parish priests were to record in writing each and every marriage act performed within the confines of their parish. They had to inform their parishioners about any forthcoming celebration of marriage during Sunday masses, and were to direct the congregation to refer to them any consideration that could lead to an impediment. The necessity to have all marriages legitimately contracted forced the Church to break away from the use of Latin in its rituals and allowed the marriage banns to be read in the vernacular.[33]

If no claims of impediments were received, the parish-priests gave their consent to the marriage. Whenever the bride did not wish to marry in her parish, it was within the competence of the same parish priest to authorise the ceremony to be celebrated elsewhere. More rigorous procedures were reserved for foreigners and locals who had left the diocese, even for a short duration. They needed authorisation from the Bishop's Curia to marry and this entailed a court procedure known as *Status Libero*. Any non-resident spouse or returning migrant had to provide evidence and testimonials to an ecclesiastical judge to prove that he or she was still single.

The legal procedure always followed the same format. The plaintiffs were the first to give evidence. They were asked to indicate their place of birth and recount their life until taking up residence in or returning to the diocese. Then, it was the turn of the witnesses. They were chosen by the plaintiff themselves from among companions or friends with whom they had travelled or shared common experiences. Precautions were taken to lessen the risks of false testimony. A number of days, sometimes even

months, were left to pass before the ecclesiastical judge convoked the friends of the plaintiff to testify. The reason for the summoning was kept secret from the witnesses. The ecclesiastical court also expected them to recount their life and that of the plaintiff, and to explain how the acquaintance with him or her had developed. Sometimes, foreign grooms produced attestations from the Bishop's Curia of their country of origin, asserting that they had not contracted marriage back home. Only when the ecclesiastical judge was convinced of the unmarried status of the groom was the latter given the necessary permission to marry a local girl. Social reality counterbalanced this rigid legal framework and the ecclesiastical judges used a very lenient yardstick when assessing a state of celibacy or widowhood. A false 'ocular' attestation was sometimes procured and a handful of cases have been encountered where a husband who had been presumed dead returned back home to find that his wife had been granted the right of remarriage by the authorities.[34]

Catholics were allowed to marry Greek or Orthodox Christians, but the marriage was to be performed in accordance with the Latin ritual, i.e., by a Roman Catholic priest in front of witnesses and following the publication of marriage banns. The Church insisted on the ritual being conducted in Latin, despite the fact that the Greek Catholic rite was recognised by the Papacy. The sole exception was reserved for Catholics marrying in an Orthodox parish or in the case where both spouses professed the Greek creed. They were then allowed to follow the Oriental ritual.[35]

Jews were another category whose marriage customs were discussed by Post-Tridentine theologians. The presence of Jewish communities in Catholic countries gave rise to doubts about Jewish freedom to marry according to their own customs. Some Catholic theologians questioned the right of male Jews *ad contrahere sponsalia*,[36] but Tommaso Sanchez had no doubts: the *Hebraecus Respublica* was to be allowed marriage according to Mosaic laws,[37] and secular princes were not authorised to interfere in their marriage customs.[38] This included the right of a Jewish husband to repudiate his (Jewish) wife and remarry.[39] This ordinance had put the Jews in a privileged position, making them unique in Catholic Europe in having the right to divorce. However, when they came to marry Catholics, they had no other option but to relinquish their faith and accept baptism. The other non-Catholics were labelled infidels. Their union was considered to be a simple contract, constituting no marriage bond and thus this type of marriage was not recognised by the Church.[40] Furthermore, the post-Tridentine canons made it impossible for infidels to marry their own kind in the realm of a Catholic prince. They were

only given the option to marry a Catholic, but first they had to obtain a special dispensation from the Pope.[41] This involved a lengthy bureaucratic procedure and involved significant expense. Infidels were thereby compelled to marry only, if at all, according to the prescribed rules of the Catholic Church.[42]

The last requisite imposed by the Council of Trent, i.e., the free status of the spouses, had a particular relevance for southern Europe, due to the contacts of Catholics with Muslim slaves. Slavery in the Mediterranean was the consequence of the perennial war between Christianity and Islam. The capture of slaves made up part of the war booty, and as such they had a vague status as prisoners of war. Slavery was not conditioned by the colour of the skin—local church records are full of information on both white[43] and black[44] slaves—but it was determined by religious creed. However, they were not given the right of marriage except if they satisfied certain rules and regulations going back to the Late Classical epoch. In the time of the Roman Empire, the Church permitted a slave to marry if he had the consent of his master, and marriage between slaves was only allowed if both belonged to different owners.[45] These precepts were still in operation in the post-Tridentine period. The insistence by the same Council on the use of the Roman Catholic marriage ritual gave the slave no other option but to seek baptism. In turn, the master's consent to marriage conferred upon the captive the rank of a free man.

The Church's policy in regard to the position of slaves assumed a direct relevance to Malta due to the presence of Muslim slaves. Unlike the practice in North Africa, the conversion of slaves to Catholicism carried no legal right to redemption. Even babies born to slaves were not granted freedom, irrespective of the fact that they were sired by a Christian parent or not. The local Church synods of 1591, 1610 and 1620 delved into the problem of the baptism of these babies but did not touch the issue of redemption. It was only in the municipal laws promulgated in 1784 that babies born to slaves were granted freedom[46] especially, if it was proven that the child was born nine months after any one of the parents fell into bondage.[47]

The attainment of free status was permanent; the death of the slave's partner did not affect the manumitted state. On the contrary, they could remarry without seeking the permission of their ex-master. These marriage ordinances made a slave an entirely free person, equal to indigenous residents of the same social status as regards ecclesiastical and civil law.

The right of freed slaves to marry fell within the framework of the Church's marital philosophy of a union unconditioned by race or kingdom.

These marriage principles were not even affected by the erosion of the medieval feudal barriers and the introduction of the concept of state boundaries. The ideal of universality, of which the marriage ordinances are just one example, instigated the Church to oppose thoroughly the political events leading to the settlement of 1648.[48] It was in the background of this political climate, that is, after the concept of national differences in Europe were consented to at Westphalia, that R. V. Catalani expounded the universality of the marital bond through the expression *amicitia extenditur ad extraneos*.

Faced by the emergence of a Europe based on a diversity of states, the Church imposed the concept of conformity. One type of marriage ritual was applied throughout the Latin Catholic world. Marriage as articulated in Canon Law was declared to be the only binding marital contract and superior to all other local customs and practices. The uniformity in marriage procedure meant that Catholics coming from different countries not only possessed an automatic right to marry local Catholics regardless of race, country, or ethnicity, but also knew beforehand the basic requirements and the legal procedure. Once the couple was married, dissolution and separation were very difficult to obtain to the extent that it was the exclusive right of bishops and popes.

The achievement of universality of marriage practices increased the risk of what the Church considered polygamous relationships. The enhancement from the sixteenth century onwards of the facility of travel made this more probable. The idea of sailors having a woman in every port was a major concern. The slow movement of news and the lack of coordination between dioceses facilitated the abuse of marrying in more than one parish. The *Status Libero* court procedure was intended to restrict the chances of polygamous contracts.

The *Status Libero* ordinances had a particular relevance for Malta. Due to the Hospitallers' corsairing and commercial activities, the island was a hub of ethnic diversity, having a concentration of Muslim and Jewish slaves, Orthodox Greeks and a considerable number of Western and Eastern European merchants and sailors. In the sixteenth century, Malta was rightly referred to as *frontiera barbarorum*.[49] The presence of a large number of Muslims and other 'heathens' made the island a place where Catholicism was in constant need of purification from the influences of non-Christian practices. The strict application of marriage laws became an important site for Church efforts towards the preservation of the faith.

In Malta, the first victim of the Church's marriage policy was the expanding Greek community. The massive presence of Greeks on the

island dated back to the time of the Knights of the Order of St. John. A large Rhodiot community is recorded as having followed the Hospitallers in 1530.[50] The Order's privateering activity in the Levant brought Greeks into direct contact with the island. Some joined the Order's maritime squadron and settled on the island. The loss to the Ottomans of Cyprus in 1570 and Candia in 1669 (the latter prompted by the recurring raids by Maltese pirates on Ottoman trade) caused influxes of Greek settlers into Malta. The cessation of Ottoman hostilities in the Eastern Mediterranean ended an epoch of mass Greek migration. The Greeks settled mostly in the harbour area, where they had three Catholic parishes in Birgu and another one in the capital city, Valletta.[51] The number of Greek parishioners was, however, in continuous decline. Following the Tridentine ordinances, the Greek Catholics, who desired to marry locals, had to relinquish their Greek ritual and enter into the Roman Catholic structure. They were thus integrated within Maltese society through marriage, to the extent that they lost all traces of their Greek identity. A vivid remembrance of this past community lies in the surname Grech. The cognomen Grech forms part of a number of surnames that were differently pronounced and recorded by parish priests. The present format is an Italian variant for the word Greek, which was applied by both the Greek migrants themselves and by parish priests as a family name. Many Greeks carried no family name, but in a culture where surnames were becoming a necessity, the parish priests used the ethnic character of the spouse, 'Greco' or 'Greg' *sive* Grech as surname in the compilation of the matrimonial act.[52]

Slaves offered the second ethnically diverse element on the island. They were mainly Muslims, together with a small number of Orthodox Christians and Jews. The Hospitaller Knights were an exception in the Catholic world and, in breach of the Church's teachings, coerced Orthodox and Jews into slavery. The Muslim slaves were of diverse ethnic origin, as indicated in the baptismal records which make reference to their skin colour or ethnicity.[53] The Arab slaves were referred to simply by the title of slaves and seem to have been distinguished from those of Turkish ethnicity. The black slaves were classified as 'negro'[54] (black) or 'ethiopico'[55] and these appellations covered individuals from Black Africa or Berbers. Some of the slaves were sold as domestics, while others were kept in the slaves' *bagno* or prison and employed as rowers on the galleys or on the construction of public buildings. A slave could regain his freedom either by being ransomed or through marriage, regardless of his skin or ethnicity.

Early modern Malta was highly observant of the Church's ordinances regarding slave marriage. Slaves were not allowed to marry unless they

were first freed by their master. The choice of their spouse was limited, as their social background restricted their circle, and they often had to choose another slave or a woman considered to be of very low repute. Whenever marrying another slave, the latter had to belong to a different owner,[56] while all captives had to seek the permission of their master to marry. Private slaves were probably given consent by word of mouth, as no written record of their redemption has been encountered in marriage acts. The situation with the state slaves was different. They had to petition the Grand Master of the Order of St. John in writing asking permission to be allowed marriage.[57] A positive response meant their automatic acquittal from the bondage of slavery.

The early matrimonial documents refer to the state of slavery of one of the marriage partners through the Italian word *schiavo* or *schiava*. Thus, on 7 October 1627, the parish priest of the harbour town of Bormla, Michele Cap recorded the marriage between 'messier Guglio Cutrett e Benedetta La fiteni schiava di Maestro Bartolomeo Lifthet'. The fact that she carried a Christian name is a clear indication that she was baptised. In the second half of the seventeenth century, Latin was introduced as the registration language of the acts and the reference to the exact status of the slaves was now clearly made. They were referred to as 'manumissum' for males and 'manumissa' for females, that is, they were specifically identified as freed individuals. Once they got baptised and manumitted, they often took the surname of their master, and in case of the Hospitallers' slaves, that of their godfather, sometimes adding the Latin preposition 'De' meaning 'of' in front of the adopted surname.

What follows is an example from the parish registers of Bormla, where the marrying slave had adopted a 'de' structured surname. On 1 October 1705 the manumitted slave, Vincenzo De Arnaud of St. Paul Parish Church Valletta, married the Cospicuan girl Caterina Vaterico. Giuseppe, a manumitted slave of the Hospitaller Order living in Valletta, adopted a different surname on his marriage in Bormla to Onorata Borg in 1704. He used his free status, *Manumisso* as surname.[58]

On a more practical level, marriage represented the first step in the integration of the slave into the local environment. The choice of marriage partners reflected in itself a social predicament. Male slaves are often found marrying dregs, in particular destitute widows[59] or pensioned-off harlots.[60] The female slaves had no better alternative, as they are also encountered marrying widowers having a large number of children. Some of the slaves' children continued to carry the stigma of their parents, as was the case with Vincenzo Orsoli, whose marriage record made reference

to the manumitted status of his mother.[61] Exceptional cases existed, as was the case of the manumitted Hieronima, whose marriage to the privateer Angelo Debiseo earned her a fortune both in terms of money and land, making her one of the richest individuals in the harbour town of Senglea.[62]

The indigent constituted the overwhelming majority of the population of early modern Europe. The social gap between the rich and the poor was marked and socially manifested. In this environment, manumitted slaves had more space for integration as they could more easily find a social companion. Alternatively, they could also follow Debiseo's footsteps and make a fortune by marrying a corsair, who also belonged to the class of the socially excluded.[63] For those who wanted to follow the normal life cycle, on the other hand, social mobility was to come only over a number of generations. The slaves' children were to ascend the first scale of the social ladder by marrying someone coming from their own social strata, as the case of Orsoli clearly indicates. The stigma of slavery would be erased by the third generation and no trace or references would be left in the records about their humble origins.

The majority of foreigners marrying locally came mostly from the Catholic countries of Spain, Italy and France. In the sixteenth century, the majority of foreigners were Sicilians, followed by the French and Italians coming from mainland Italy. Foreigners normally took a while to integrate into local society. They are often found marrying at a more advanced age than locals. Malta was not an exception; the *Status Libero* records attest that the majority of the foreign immigrants were males and they were mostly of humble origin. The latter quality made their integration difficult, and they are often found marrying widows. Many of them bore no surname and where just known by their country of origin. A person from Gaul was called Galia or Gallia. Later on, these variations were fused into one format: Galea. Sometimes the document was more specific. Some Parisians were identified with their city of origin, receiving the surname, De Paris. The city of Venice, Naples and Genoa left their mark on surnames in the format of Veneziano, Napolitano and Genovese.

The situation changed in the eighteenth century. By then, the majority of the foreign grooms hailed from Italy, followed by the French and Spaniards. Most eighteenth-century Frenchmen were from Toulon and Marseilles and they tended to marry within the French community, especially into families involved in commercial activities. The Italians hailed from all the major ports of the peninsula, in particular those situated in Sicily and on the Tyrrhenian sea. Unlike the French, they failed to show any particular marriage pattern or preferences.[64]

The French period of occupation (1798–1800) witnessed the introduction of civil marriage and divorce in Malta. The Maltese rebelled against this authority and besieged the French army behind the walled cities for eighteen months. This hostile atmosphere did not leave much space or time for the celebration of marriages. The takeover of Malta by the British resulted in the reinstatement of the old marriage pattern. The Anglican British were obliged to reach a *modus vivendi* with the Maltese Church to govern. Those British who wanted to marry baptised Maltese individuals needed to seek parish approval. In the first half of the nineteenth century, a number of British soldiers, particularly in Birgu, married locals. These were described as being from Hibernia, i.e., Catholic Ireland, while the Englishmen were classified as *Anglocorum Catholicorum.*[65] Does this fact reflect a religious sensibility on the British part of stationing on the Island, soldiers of Catholic faith to avoid tension with the local Catholics?

The Church's insistence on the use of one marriage ritual, together with its emphasis on the indissolubility of marriage, facilitated the integration of foreigners in local households. The pressure exercised was twofold. It compelled the bride's family to accept an 'alien' in its familial group. At the same time, through conversion, it compelled the husband to adapt himself more quickly to his new place. The cultural laws of honour and shame did the rest by obliging the couple to be faithful to each other and to the unwritten code of their respective family clans. The tender age allowed for marriage further facilitated social integration. The younger the foreigner was at marriage, the better were his chances of adjusting to the new familial network and the social structures of the adopting country. The biological diversities were the last to disappear. They were to be blended through the procreation of children and through the eventual generation of a new family stem.

Yet, as indicated above, the universality given to marriage by the Catholic Church was not in tune with the political and religious principles developing in Europe after 1648. At Westphalia, the rule of particularity was avowed and the motto *cuius regio eius religio* was forcefully reaffirmed, making any discourse on the universality of the Roman Catholic Church irrelevant to many parts of Europe. What successive popes, in particular Innocent XII, and Clement XI, perceived as a discordant premise, (the autonomy gained at Westphalia by the states at the expense of the universality of the Church) had to wait for a century to soothe. It was only in the late eighteenth century, that sections of the Gallican clergy became supportive of the bourgeois ideal of citizenship, a concept that represented the essence of the Westphalia Treaty. On different lines but expressing the same

concept, the Church marriage records in Malta demonstrated receptiveness to this principle during the same period.

The *Status Libero* records provide written evidence of the generally positive perception of foreign spouses held by locals. All foreigners professing the Catholic faith were filtered through the Ecclesiastical court process of the *Status Libero* to be allowed to marry. Written records of these court cases are still preserved in the chancery of the Ecclesiastical Curia of Malta, with the exception of documents of the eighteenth century, which are mostly to be found at the Cathedral Archives at Mdina. The affinity between a man and his homeland comes forth in both the ecclesiastical judge's interrogation and the witnesses' answer. The recorded dialogues expressed, *de facto*, how the Church's principle of *amicitia extenditur ad extraneos* became an affirmed concept in Malta.

The meaning that the term foreigner held in Malta in the seventeenth and eighteenth centuries emerges in the *Status Libero* records through the word *patria*. In the seventeenth century, the use of the word *patria* by foreigners in connection with their place of birth provoked no cultural shock to the established social fabric. The same term was equally used by the ecclesiastical judges and Maltese plaintiffs whenever they referred to their place of origins.

However, the same *Status Libero* documents are also the agents forecasting change in the perception of the land of origin. An in-depth analysis of the manner how foreigners themselves viewed their homeland points towards influences in Malta of French Enlightenment ideals. The climax was reached in the eighteenth century, when foreign and local spouses ceased to associate themselves with the land, but began to think in terms of citizenship.

In the late seventeenth century, the Latin word 'patria' began to gain currency in the *Status Libero* plaintiffs' attestations, and remained in use throughout the following centuries in reference to one's place of birth. On 3 July 1699, Andrea Granger, an eighteen-year-old soldier, requested an attestation of his single status from the bishop's *Gran Corte*. In the petition, he expressed 'the desire to return again to my *patria*', by which he meant his native city of Lyon in France, where he wanted to get married.[66] In that same year, Giulio Mamo, a Maltese from Valletta, was asked to appear in front of the Bishop's court as a witness in favour of Domenico Barbara of Lija. Barbara had been absent from the island for a period of time, and as he also desired to marry, he had to produce witnesses to attest that he had not contracted marriage while living abroad. Mamo was called to the witness stand where he affirmed 'to have just returned

here (in Malta) to my homeland (*patria*)'[67] after a long period of residence in Messina, where he had come to know Barbara.[68] The way in which Mamo used the expression *mia patria*, especially the fact that he seems to be stressing his relation with the island of Malta, has strong nationalistic connotations. The suggestion of a hybrid nationalistic sentiment holds ground if one remembers that such an expression was rarely used in relation to Malta. In the majority of the cases, it was employed in relation to the name of a town or village.[69] The principle of statehood, which had been first germinated by the Westphalia Treaty in 1648, was creeping into Malta.

During that same period, some *Status Liberi* were more specific in the form of address among persons living in the same town. The documents make reference to expressions like *compatriota* (fellow patriot) and *condiscepoli* (fellow disciple). On 28 May 1693, Pietro Borg of Senglea was summoned to the Bishop's Curia to testify in favour of Tommaso Correo for a *Status Libero*. Being a naturalised Maltese, Correo had to institute proceedings to be allowed marriage in Malta. Borg defined Correo as *mio compatriota* and he insisted that they were *condiscepoli*. Borg was from Senglea but, due to the fact that for the last six years Correo had been living there, Borg recognised him as his *compatriota*.[70] The word *compatriota* was still in use in the middle of the eighteenth century. In 1756, Saverio Giuseppe Rocca wanted to get married in Naples. He wrote to the Bishop of Malta to issue a written attestation of his single status. Antonio Depares went to testify in Rocca's favour and defined him as a fellow countryman (*compatriota*) and that they were business partners.[71]

In the second half of the eighteenth century, the Bishop's Curia, together with some of the harbour parishes, show signs of the influence of the new political ideals that were circulating in France. The presence of a strong French community could only aid the diffusion of French Enlightenment ideas, especially in the harbour parishes. Some of the local priests were more than ready to embrace them. The *Status Libero* of this period make frequent references to the use of the expression *concittadino*, carrying the same French significance of *citoyen*—a citizen of a place. On 26 January 1760, Joseph Cutajar applied for single status recognition. Antonio Mundello, a sailor, was asked to appear as a witness. In his testimony, Mundello recognised Cutajar as being a fellow citizen. Cutajar and Mundello hailed from different harbour towns. The former was born in Bormla but resided in Vittoriosa, while the latter was from Senglea.[72] Giovanni Vrie expressed the same attitude. He was called as witness in the case of the

Status Libero of Stefano Bravista on 20 January 1794. Vrie described Bravista as his *concittadino*, on the premise that they were both from the city of Cherso.[73] On the other hand, if a foreigner decided to establish permanent residence here, he began to be considered as equal to the Maltese. This was the case of the Neapolitan, Michele Spesimo. On the principle that he was married and living in Malta, Gioacchin Demartino of Senglea described him as being a fellow *cittadino*.[74]

The marriage records of Porto Salvo reflect the introduction of a new title that, of *cives* or *cittad[ino]*, which is complementary to the term *concittadino*. The Latin title *cives* or its Italian translation *cittadino* was used in relation to both husband and wife and the first one dates to 29 May 1798, that is three months prior to the arrival of the French forces in Malta on 2 September 1798. Both the husband and his wife, namely *cittad[ino]* Josepho Trapani and *cittad[ina]* Juditta Ciani had been born in Valletta and their respective parents had been married in the same parish church of Porto Salvo. During the French occupation the title *cives* continued to be used. However, not all the marriage partners were given such a title. It was neither based on sex nor on ethnic criteria. Nine individuals were addressed as *cives* in the records of Porto Salvo between 1798 and 1800[76] but only two were identified to be foreigners.[77]

The word citizen is usually associated with French enlightened writers and was credited by Simon Schama as the impelling force behind the Revolution. Its local usage places Malta in the current of the ideals fomenting in mainland Europe, as both the Italianized word *concittadino* and the Latin format *cives* were used in relation to residence. These were not mere legalisms and the fact that they were used by a restricted number of people confirms the political significance in the use of these terms. The French secular ideals of citizenry were substituting the role enjoyed by Catholic marriage in making foreigners equal citizens. Ironically enough, the Maltese Church was the vehicle behind these changes, as it was through the Church mechanisms that they became apparent, whereas the fact that they were being documented in ecclesiastical registers indicates a certain sense of complacency on the part of the authorities. Republican idealism, however, suffered a severe backlash.[78] The French forces of liberation proved to be armies of occupation as they replaced petty European princes with army generals. A strong general reaction set in in Europe, Malta included, against the French forces, and the Republican ideals of national liberty and citizenry were commuted into a new spirit of patriotism, romanticism and nationalism. The military regime installed by the *Directoire* in Malta (1798–1800) succeeded in uniting the Maltese in a full-scale

revolution against French rule. The disrespect shown by the French authorities towards Maltese social and religious traditions eroded the interest in French culture that had been infiltrating throughout the Hospitallers' rule. As a reaction, French ideals of citizenship lost ground and the concept of Christian faith reaffirmed itself over the secular ties of residence and place. In nineteenth-century Malta, the new spirit of nationalism found in religion its source of inspiration and the Church's marriage ritual made a comeback as a passport to Maltese citizenship.

Yet this was a partial victory, especially if the events are evaluated in a European context. In general, the nineteenth-century Church failed to manifest the same rigorous spirit of reform as the one it had shown to the protestant threat. The same method was applied—the calling of a general council— but it failed abysmally to prove itself innovative in a European world geared towards industrialisation and secularisation. Maybe, the causes for this standstill lay in the reformative years 1563–1789, when the triumphal success of the reforms disabled the Church from foreseeing the future. Reforms in the marriage system were a case in point, as they would be a bone of contention in the fight for secularisation, with the difference that, while the Church endured the first challenge, it failed in the second. The reason for success in the first is the fact that the Church proved itself to be innovative. The efforts to supersede the protestant crisis forced it to shift emphasis from procreation to marital love, brilliantly succeeding in turning marriage laws into an innovative force for social change. The significant fact of introducing an age limit on marriage put in a nutshell the efforts undertaken by the Church in the field of social reform. However, what was in the seventeenth century a triumphant philosophy became in the next century a symbol of orthodoxy. The Church's resolute stand against change condemned it to a state of reclusion and isolation. It ceased to be the force inspiring change and its marriage regulations lost much of their value in a secularised world. Rather than opening itself to new ideas, it became more repressive, especially as regards sexual attitudes.[79] Wherever Church marriage made a comeback, it either accompanied a restored régime or was safeguarded in reaction to the failed hopes and promises of freedom and equality generated by the revolution of 1789. However, the days of glory were over.

Notes

1. Among the important works on marriage produced in this period, one finds P. Laslett (ed.). *Household and Family in Past Times*. (CUP 1972); J.-P. Flandrin. *Familles, parenté, maison, sexualité dans l'ancienne société*. (Paris 1976) and J. Goody, *L'Evolution de la Famille et du Marriage en Europe*. (Paris 1985).
2. L. Stone, *The Family, Sex and Marriage in England, 1500–1800*. (London 1977).
3. L. Henry, *Population: Analysis and Models*. (1976).
4. J. Clericatus, *De Ordinis Sacramento Decisiones*. (Venice 1726).
5. For further reading on this subject see A. Schembri and N. Buttigieg. *A Demographic Study of Marriages in Vittoriosa (1558–1850)*. Unpublished B.A. Thesis, 1996.
6. G. Lupi, *L-Istorja tal-Liturgija*. (Malta 1992). 204.
7. P. Brown, *The Body and Society*. (Columbia University Press 1988). 33–64.
8. F. Sylvius, *Theologiae Doctoris*. Vol. I, II, III (Venice 1726).
9. Clericatus, 5.
10. Brown (1988), 65–82.
11. Ibid.
12. Clericatus, 25–26.
13. Ibid., 392.
14. R. V. Catalani. *Universi Juris Theologico-Moralis Corpus Integrum*. (Venice 1728). Vol. 2, 298.
15. Brown. (1988), 33–64.
16. 'Quomodo potest duobus dominis servire, Domino et marito, adde gentili? Gentilem enim observando gentilia exhibeat . . . Domino certe non potest pro disciplina satisfare, habens in latere diaboli servum . . .' Tertullian, *Ad uxorem*, II, III, 4–vi, 2.
17. Lupi, 206.
18. Clericatus, 222.
20. Catalani, 323.
21. Clericatus, 292.
22. Ibid. The divorce of Joanne of Valois was the most acclaimed medieval case of divorce among seventeenth-century Jesuit theologians. The Frankish king Ludovicus XXII was reputed to have dissolved the marriage of Joanne de Valois on the principle of infertility and thus making possible his remarriage to the duchess of Brittany.
23. T. Sanchez, *De Sancto Matrimonii Sacramento Disputationum*. (Venice 1693). Vol. 2, 9, 10; Catalani. 288.
24. Sanchez, Vol. 1.
25. *Concilii Tridentini Actorum*. Partis Tertiae. Vol. 2, 1952.
26. A number of cases have been encountered in Malta of boys and girls getting married below the age of twelve. This subject further developed in my forthcoming doctoral thesis.
27. E. Muir, *Ritual in Early Modern Europe*. (C.U.P. 1997), 31–44.
28. Ibid. 31.
29. Catalani, II. 253.

30. Clericatus, 362.
31. J.-P. Poussou. 'Migrations et Mobilité de la Population en Europe', *Histoire des Populations de l'Europe*. Ed. J.P. Bardet and J. Dupâquier, Vol. 1. (Fayard 1997) 264–265.
32. S. Mercieca, *Births, Marriages and Deaths in the Central Mediterranean. A Socio-Demographic Study of the Maltese Town of Bormla*, (forthcoming).
33. F. Ciappara, *Marriage in Malta in the Late Eighteenth Century*. (Malta 1988).
34. F. Ciappara, *Society and the Inquisition in Malta*. (Malta 2001), 164–165.
35. Clericatus, 366.
36. Sanchez, I, 114.
37. Ibid., 388.
38. Ibid., II, 10.
39. Ibid., I, 388.
40. Ibid., 28.
41. Ibid., 32.
42. Catalani, 297.
43. A(rchivum) P(aroccialis). Porto Salvo Valletta. Baptismal Register. Vol. 1, 28-ii-1590.
44. Ibid., 06-x-1596.
45. Lupi, 206.
46. *Del Diritto Municipale di Malta. Nuova Compilazione. Con Diverse altre Costitutioni*. (Malta 1784), 251.
47. I owe this information to Professor G. Wettinger.
48. W. R. Ward. *Christianity under the Ancien Régime 1648–1789*, (C.U.P.) 1999.
49. C. Dalli, *'In Frontiera Barbarorum:* Waiting for the Turks on Late Medieval Malta', *Proceeding of History Week 1994*, Malta Historical Society 1996, 126. 'Relazione dell'Isola di Malta fatta alla S. tà di N.S. Papa Gregorio XIII Dell'Anno 1582', *Archivio Storico di Malta*, Vol. XIV, Fasc. III, 286–303.
50. S. Fiorini. 'The Rhodiot Community of Birgu – A Maltese City 1530–1550' Ed. V. Mallia Milanes, *Library of Mediterranean History*, Vol. I.
51. F. Chetta Schirò. *Memorie su le Chiese e il Rito Greco in Malta*, (Malta 1930), 11.
52. Cfr. Mercieca, Chapter 8.
53. AP Porto Salvo, Baptismal Register, Vol. I. Date of act 10-01-1601.
54. AP Porto Salvo, Baptismal Register, Vol. I. Date of act 01-04-1591; 10-01-1601; 12-08-1610.
55. AP Porto Salvo, Baptismal Register. Vol. I.
56. No cases have been encountered in local marriage acts of spouses who had both been slaves being manumitted by the same master.
57. G. Wettinger. *A History of Slavery in Malta*, Unpublished Ph.D. Thesis, London University, 1972.
58. A. P. Bormla, Marriage Register. vol. 3, entries 01-10-1705 and 23-02-1705.
59. What follow are a few examples from the Marriage Records of the Parish of Bormla of slaves marrying widows or widowers. Giuseppe Sacco, a manumitted slave of Porto Salvo married a widow, Rosa Traina (AP Porto Salvo Marriage Register.

Vol. 5, entry 03-07-1755). Following the death of his manumitted wife, Giuseppe Sacco, married the widow of Giovanni Marmara, Geronima (AP Bormla Marriage Register Vol. 6, entry 03-07-1755 and Vol. 8, entry 24-09-1778). The widower Pasquale Scicluna took a manumitted slave, Caterina De Fiteni as wife. (Ibid. Vol. 4, entry 01-07-1737).

60. Cfr. Mercieca, Chapter 8.
61. A. P. Bormla, Marriage Register. Vol. 7, entry 09-11-1791.
62. Malta Notarial Archives. Notary Sciberras, 1602.
63. Judging from the criminal records of the *Castellinia*, (the *Miscellinia* volumes – Archives of Santo Spirito, Rabat) *buonavoglie* and corsairs were not viewed kindly by society.
64. Mercieca, Chapter 9 for patterns of migration.
65. A. P. Birgu. Marriage Register, Vol. VI.
66. Curia Episcopalis Melitensis (CEM) Mdina AO (Acta Originalia), 1699–1700, f. 124r.
67. Ibid. The exact words used were 'qui in mia patria'.
68. Ibid.
69. What follows are just three examples taken from the documentation of 1699–1700, among many, involving the use of the word *patria*. On that same year 1699, the word *patria* was frequently used in reference to the actual place of birth. Paolo Vella said he was living 'nel Rabbato della Città Notabile mia patria'. (CEM AO, 1699–1700, f. 239v). A similar description was given by Pietro Zarb from Birkirkara. (CEM AO, 1699–1700, f. 146r.) In the following year. Giovanni de Martino and Giovanni Doce appeared as witnesses in the *Status Libero* proceeding instituted by Giuseppe Mallia. De Martino described Senglea as 'my homeland' (mia patria) while Giovanni Doce is credited with the same expression in regard to his native city of Margeta in Sicily. (CEM AO, 1699–1700, f. 258r.) Giuseppe Mallia made a similar statement. In 1710, he defined Senglea as *mia patria*. (CEM AO 747, 1710, 08-11-1710, f. 258r).
70. Archiepiscopal Archives Malta (AAM) Floriana. *Status Liberi*. Box 1693. 28-05-1693.
71. AAM *Status Liberi*. Box. 1756.
72. CEM AO, 800, 1760, f. 87 v.
73. CEM AO, 836, 1794–1798, f. 13.
74. CEM AO, 830, 1780–1781, f. 366r.
75. J. Baldacchino and M. R. Psaila, *A Demographic Study*. Unpublished B.A. dissertation, University of Malta 1973, 22.
76. They were *Cives* Giovanni Carba and *Cives* Andrea Gosin. The woman was the wife of Gosin, *Cives* Maria Piott.
77. Baldacchino and Psaila, 22.
78. S. Schama, *Citizens. A Chronicle of the French Revolution*. 1979.
79. The baptismal registers furnish a very clear example. In the sixteenth century, children born from illegitimate parents needed no permission to be baptised. In the nineteenth century, the local Curia demanded parish priests seek formal authorisation to baptise an illegitimate baby.