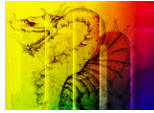


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– Section 1: Articles –

The Right to Petition in the Italian  
Revolutionary Triennium (1796-1799)

by  
Cecilia Carnino



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### Section 1: Articles

#### Special Issue: From Defensor civitatis to Ombudsman

1. *Introduction to the Special Issue* (A. Trisciuglio)
2. *The Athenian Democracy: A User's Guide* (C. Lasagni)
3. *Les rôles non institutionnels de représentation et de protection dans la Grèce antique* (G. Cuniberti)
4. *The defensor civitatis for the Protection of Vulnerable People: From Rome to the Present Day* (M. Lourdes Martínez de Morentin)
5. *The Right to Petition in the Italian Revolutionary Triennium (1796-1799)* (C. Carnino)
6. *Historical-Romanistic Study of the Institution of the Ombudsman: An Institution Inherent to Democracy* (C. Jiménez Salcedo)

#### General Section

7. *What Remains of Manhood: The Reshaping of Female Power and Leadership in the Early Modern Age* (E. Belligni)

#### Section 2: Notes

8. *History of the Earth, Laboratory of Revolutions* (E. Pasini)

#### Section 3: Reviews

9. *Book Reviews* (L. Coccoli, V.M. Di Mino, E. Pasini)
- .....

# The Right to Petition in the Italian Revolutionary Triennium (1796-1799)

Cecilia Carnino \*

*The goal of this article is to contribute to the study of the historical trajectories of petitioning, focusing on the Italian Democratic Triennium (1796-1799). The aim is to examine how, within the framework of the new political-institutional regime of democratically-inspired republics, petitioning was conceptualised primarily as an instrument of political participation, interest representation, and the protection of rights vis-à-vis the constituted authorities. The focus will be on the right to petition from the perspective of ideas, intellectual history, and political cultural history. The first part of the article will deal with the right of petition in the Constitutions of the Italian Revolutionary Triennium by comparing the various Italian republican experiences and also taking into account the fundamental model represented by the French constitutions. The second part will focus on the debates on the right to petition that took shape in the context of the Cisalpine Republic, particularly in the sessions of the Grand Council (Gran Consiglio), the lower chamber of the legislative body. It was precisely the members of the Grand Council, who developed the most articulate reflections on the right to petition and on petitions as an instrument of political participation, of defining and defending public interests, and also of protecting citizens against the authorities.*

## 1. Petitions, representation, and participation

Today's search by citizens for new and different forms of political participation and interest representation has led to a renewed attention to petitions and, in particular, to the historical trajectories of petitioning. In a growing body of literature on petitioning in early modern and modern Europe, Britain (and in

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particular England) continues to receive prominent interest, at least in terms of the number of studies produced. Building on the insights and interpretations already advanced in 1995 by Charles Tilly in his *Popular Contention in Great Britain, 1758-1834*, several historians of 17<sup>th</sup>-century Britain have focused on the topics of the petition as a form of political communication and petitioning in times of political crisis.<sup>1</sup> Emphasis is placed on the specificity of the British context from the perspective of political history, which favoured an interest in collective petitions.<sup>2</sup> In Great Britain, a new form of petition associated with protest and closely linked to the formation of the public sphere was established as early as the mid-17<sup>th</sup> century with the First English Revolution.<sup>3</sup>

A British tradition of studies has been established of which the best-known works are probably those of David Zaret, who has emphasised the distinction between pre-modern and modern forms of petition. The former, also referred to as the category of petitions and responses, which were already widespread in Europe in the late medieval and early modern periods, were an instrument by

<sup>1</sup> Charles Tilly, *Popular Contention in Great Britain, 1758-1834* (Cambridge: Cambridge University Press, 1995); Mark Knights, *Representation and Misrepresentation in Later Stuart Britain* (Oxford: Oxford University Press, 2005), 109-162; Derek Hirst, "Making Contact: Petitions and the English Republic", *Journal of British Studies* 45/1 (2006): 26-50; Edward Vallance, "Harrington, Petitioning, and the Construction of Public Opinion", in *Perspectives on English Revolutionary Republicanism*, ed. Dirk Wiemann and Gaby Mahlberg (London: Routledge, 2016), 119-32; Amanda Jane Whiting, *Women and Petitioning in the Seventeenth-Century English Revolution: Deference, Difference, and Dissent* (Turnhout: Brepols, 2015); *The Power of Petitioning in Early Modern Britain*, ed. Brodie Waddell and Jason Peacey (London: UCL Press, 2024).

<sup>2</sup> British historians have also focused on early modern petitions as sources of social history. Within a rather extensive literature, see at least: Kevin Sharpe, *Reading Authority and representing rule in early modern England* (London: Bloomsbury 2013); Alexandra Shepard, "Poverty, Labour and the Language of Social Description in Early Modern England", *Past & Present* 201 (2008): 51-95; *Chronicle of poverty: the voices and strategies of the English poor, 1640-1840*, ed. Tim Hitchcock, Peter King, Pamela Sharpe (London: Basingstoke, 1997).

<sup>3</sup> David Zaret, "Petitions and the 'Invention' of Public Opinion in the English Revolution", *American Journal of Sociology* 101 (1996): 1497-555; David Zaret, *Origins of Democratic Culture: Printing, Petitions, and the Public Sphere in Early-Modern England* (Princeton: Princeton University Press, 2000). From a different perspective, which is also critical of Zaret's arguments, see: Mark Knights, "'The Lowest Degree of Freedom': The Right to Petition 1640-1800", in *Pressure and Parliament: From Civil War to Civil Society*, ed. Richard Huzzey (London: John Wiley, 2018), 18-34; Mark Knights, "Participation and representation before democracy: petitions and addresses in premodern Britain", in *Political Representation*, ed. Ian Shapiro, Susan C. Stokes, Elisabeth Jean Wood, Alexander S. Kirshner, (Cambridge: Cambridge University Press, 2010), 35-58.

which petitioners sought to obtain benevolent intervention from rulers. These forms of petition have essentially been interpreted as instruments of rule, as opposed to petitions understood as mechanisms of popular expression or protest. The latter, modern petitions began to gain ground in Britain in the mid-17<sup>th</sup> century and then spread to continental Europe and North America in the last decades of the 18<sup>th</sup> century, forming the basis of the 19<sup>th</sup>-century phenomenon of mass petitions—collective, public petitions based on established or claimed rights.

Within this interpretive framework, however, the significance of petitions and responses is in danger of being minimised, as a number of works on the phenomenon of petitions in the late Middle Ages and Early Modern Age by Andreas Würgler and Cecilia Nubola have shown.<sup>1</sup> These studies, which are mainly on institutional history and focus on the Central European context, have questioned the idea of petitions and responses as exclusively inscribed in the sphere of requests for favours, patron-client relationships, deference, and paternalism. Often produced by elites, these forms of petition served rather as an instrument for asserting and claiming rights, and above all had a regulatory function.<sup>2</sup>

In recent years, however, there have been new impulses in British historiography, both in favour of a more comparative dimension of research on a European and Atlantic scale, and in favour of breaking down the chronological barriers between the early modern and modern periods.<sup>3</sup> Within this framework, a specific

<sup>1</sup> *Suppliche e 'gravamina'. Politica, amministrazione, giustizia in Europa (sec. XIV-XVIII)* (Bologna: il Mulino, 2002); *Forme della comunicazione politica in Europa (sec. XV-XVIII). Suppliche, gravamina, lettere/Formen der politischen Kommunikation in Europa vom 15. bis 18. Jahrhundert. Bitten, Beschwerden, Briefe* (Bologna/ Berlin: il Mulino Duncker& Humblot, 2004); *Operare la resistenza. Suppliche, gravamina e rivolte in Europa (sec. XV-XIX)/Praktiken des Widerstandes. Suppliken, Gravamina und Revolten in Europa* (Bologna/ Berlin: il Mulino Duncker&Humblot, 2006).

<sup>2</sup> For a critical discussion of petitioning as a peaceful way for rulers and subjects to interact in early modern Europe, see Martin Almbjör, “The problem with early-modern petitions: safety valve or powder keg?”, *European Review of History* 26/6 (2019): 1013-1039. For an insightful and useful discussion of the various historiographical approaches to the subject of petitions in early modern Europe, see Simona Cerutti, “Archeology of rights: Petitions and mercy in early modern societies”, *The Italian Academy for Advanced Studies*, 2018 available at: <https://italianacademy.columbia.edu/paper/archaeology-rights-petitions-and-mercy-early-modern-societies>.

<sup>3</sup> Richard Huzzey, Henry Miller, “Petitions, Parliament and Political Culture: Petitioning the House of Commons, 1780-1918”, *Past & Present* 248 (2020): 123-164; “Early Modern Political Petitioning and Public Engagement in Scotland, Britain and Scandinavia, 1550-1795”, special issue ed. by Karin

focus on the 18<sup>th</sup> century has emerged, interpreted as a fundamental transitional phase between the early-modern petition tradition and modern mass petitions. In particular, the category of “liminal petitions” has been proposed, i.e. hybrid and transitional forms of petition between petitions and responses and mass petitions, which marked the second half of the 18<sup>th</sup> century in particular and whose appearance paralleled the development of the right to petition.<sup>1</sup> In his recent and important book *Nation of Petitioners: Petitions and Petitioning in the United Kingdom, 1780-1918*, Harry Miller has highlighted how the establishment of the right to petition represented a fundamental turning point, and especially how, in the final decades of the 18<sup>th</sup> century – at a time when parliaments, albeit elected by limited suffrage, acquired central importance in political and public life—petitioning became a practice associated with political representation.<sup>2</sup>

In these studies, however, the phase of the second half of the 18<sup>th</sup> century and the early 19<sup>th</sup> centuries—that of liminal petitions and the establishment of the right to petition—ends up occupying a limited space in historical reconstructions. The focus is entirely on the long 19<sup>th</sup> century and the phenomenon of mass petitions. On the whole, however, the historiography on the subject, not least because of the prevalence of studies on the British case, has so far shown surprisingly little interest in the period of democratic revolutions between the second half of the 18<sup>th</sup> century and the early 19<sup>th</sup> century.<sup>3</sup> Among the partial exceptions is the backdrop of revolutionary France, to which some important contributions in the field of legal history have been devoted, stressing the close

Bowie, Thomas Munck, *Parliaments, Estates and Representation* 38/3 (2018).

<sup>1</sup> David Zaret, “Petition-and-response and liminal petitioning in comparative/historical perspective”, *Social Science History* 43/3 (2019): 431-51.

<sup>2</sup> Harry J. Miller, *A Nation of Petitioners: Petitions and Petitioning in the United Kingdom, 1780-1918*, 8 (Cambridge: Cambridge University Press, 2023). Switching to the North American context, the link between petitions, democracy, and popular participation is at the heart of Daniel Carpenter’s recent book, entitled *Democracy by Petition. Popular Politics in Transformation. 1790-1870* (Harvard: Harvard University Press, 2021).

<sup>3</sup> There are some important exceptions to be noted: Wayne Te Brake, “Petitions, Contentious Politics, and Revolution in Early Modern Europe”, in *Operare la resistenza*, 17-28; Andreas Würzler, “Kontinuität und Diskontinuität zwischen Ancien Régime und Helvetischer Republik am Beispiel der Bittschriften”, in *Umbruch und Beständigkeit. Kontinuitäten in der Helvetischen Revolution von 1798*, ed. Daniel Schläppi (Basel: Schwabe, 2009), 49-64; Joris Oddens, “The Greatest Right of Them All: The Debate on the Right to Petition in the Netherlands from the Dutch Republic to the Kingdom (1750-1830)”, *European history quarterly* 47/4 (2017): 634-656.

link between the right to petition and the system of representative democracy.<sup>1</sup>

Partly inspired by these works, the aim of the present article is to contribute to the study of the specificity of the phenomenon of petitions in the revolutionary phase, focusing the analysis on the Italian Democratic Triennium (1796-1799), for which there is still a complete lack of studies from this perspective.<sup>2</sup> The aim is to examine how, within the framework of the new political-institutional regime of democratically-inspired republics, petitioning was conceptualised primarily as an instrument of political participation, interest representation, and the protection of rights vis-à-vis the constituted authorities. The focus will therefore be on the right to petition from the perspective of ideas, intellectual history, and political cultural history rather than political practice. The first part of the article will focus on the right to petition in the constitutions of the Italian Revolutionary Triennium by comparing the various Italian republican experiences and also taking into account the fundamental model represented by the French constitutions (Section 2). The second part will focus on the debates on the right to petition that took shape in the context of the Cisalpine Republic, particularly in the sessions of the Grand Council (*Gran Consiglio*), the lower chamber of the legislative body. It was precisely the members of the Grand Council, who found themselves debating citizens' petitions in the midst of parliamentary procedures and practices, who developed the most articulate reflections on the right to petition and on petitions as an instrument of political participation, of defining and defending public interests, and also of protecting citizens against the authorities (Section 3).

<sup>1</sup> Especially crucial is the reference to Yann-Arzel Durelle-Marc, "Nature et origines du droit de pétition", *La revue administrative* 61 (2008): 47-60. Also from the perspective of legal history, see also, see also: Marie de Cazals, "Les (r)évolutions du droit de pétition", in *Regards critiques sur quelques (r)évolutions récentes du droit*, vol. II, *Réformes-Révolutions*, ed. Maryvonne Hecquard-Théron, Jacques Krynen (Toulouse: Presses de l'Université Toulouse Capitole, 2005), 507-522; Perrine Preuvot, "Le droit de pétition: mutations d'un instrument démocratique", *Jurisdoctoria* 4 (2010): 73-97. On the post-Napoleonic period, see Agnès Benoît, *L'appel au pouvoir : les pétitions aux Parlements en France et au Royaume-Uni (1814-1848)* (Rennes : Presses universitaires de Rennes, 2018).

<sup>2</sup> Gian Luca Fruci, "Alle Origini del Momento Plebiscitario Risorgimentale. I Liberi Voti di Ratifica Costituzionale e gli Apelli al Popolo nell'Italia Rivoluzionaria e Napoleonica (1797-1805)", in *Vox Populi? Pratiche plebiscitarie in Francia Italia Germania*, ed. Enzo Fimiani (Bologna: Clueb, 2010), 87-143.



## 2. The right to petition. From the French model to the constitutions of the Triennium

The French Revolution was undoubtedly a fundamental moment in the reassessment of the meanings and values attached to petitioning, as well as in the transformation of various traditions of petitioning that had been established in Europe during the medieval and early modern ages. The emergence of the right to petition in Anglo-Saxon countries preceded its establishment in France, yet it was in the context of the French Revolution that the right to petition found its essential precondition, namely as a system of representative democracy.<sup>1</sup>

Although the right to petition was often evoked in the debates of the National Constituent Assembly from the early stages of the Revolution, its exercise was not regulated until May 1791. The first text referring to the right to petition dates back to December 1789. It was a decree on municipalities which provided that “citoyens actifs” (active citizens) had “the right to assemble, peacefully and unarmed, in private assemblies; and to draft addresses and petitions either to the municipal body, or to the administrations of the departments and districts, or to the legislative body, or to the king”).<sup>2</sup> The reference to “active citizens” actually implied that the right to petition was not granted to all citizens, and excluded those without political rights.<sup>3</sup>

It was not until May 1791, following a proposal submitted by the Municipality of Paris to regulate the right to petition, that the issue became the focus of political debate in the National Assembly. The deputy Le Chapelier presented a report in which he stated that the right to petition was an eminently political

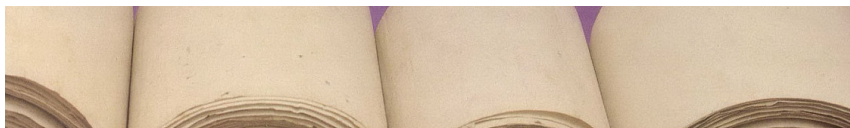
<sup>1</sup> Durelle-Marc, “Nature et origines du droit de pétition”, 47-60.

<sup>2</sup> Décret sur les municipalités, 14 décembre 1789, Art. 62.

<sup>3</sup> Durelle-Marc, “Nature et origines du droit de pétition”, 50-51.



right, enabling people to participate in the governing of the city and in the making of laws. It was a right reserved only for active citizens and was an individual right (collective petitions were not allowed). The reaction of the democrats to the moderate project proposed by Le Chapelier, who took the opportunity to reaffirm the principle of the census on the eve of the elections, is well known. Robespierre, Pétion de Villeneuve, and Grégoire raged against the project, seeking to legitimise the right to petition as a natural (and not political) right that, as such, could be exercised by anyone and not only by active citizens.<sup>1</sup> At the same time, they claimed the legitimacy of collective petitions. After long and heated debate, the final decree, adopted in May 1791, granted the right to petition to all individuals, thus making the right to petition a natural right.<sup>2</sup> On the other hand, collective petitions were prohibited, while petitions signed by several individuals were implicitly permitted. Petitions had to bear the signatures of the petitioners; if they were unable to sign, at least their name had to be indicated. A partial change came with the Constitution of September 1791, which listed the right to petition among the “droits naturels et civils”, although only individually-signed petitions remained legitimate.<sup>3</sup>



The *Déclaration des droits de l'homme* of the Constitution of the Year I, drawn up by the Montagnard Convention but never enacted, proclaimed the right to

<sup>1</sup> “Assemblée Nationale, Séance du mardi 10 mai 1791”, in *Archives Parlementaires de 1787 à 1860, Première série (1787 à 1799)*, tome XXV, du 13 avril au 22 mai 1791 (Paris : Société d'imprimerie et librairie administratives et des chemins de fer, 1887) 687-695; Sophie Wahnich, “La pétition: une politisation de la plainte, 1789-1792”, *Annales de l'Est* 57/2 (2007): 71-87; Haim Burstin, “La loi Le Chapelier et la conjoncture révolutionnaire”, in *Naissance des libertés économiques: liberté du travail et liberté d'entreprendre; le décret d'Allarde et la loi Le Chapelier, leurs conséquences, 1791-fin XIX<sup>e</sup> siècle*, ed. Alain Plessis (Paris: Institut d'histoire de l'industrie, 1993), 63-76.

<sup>2</sup> Loi des 10, 18, 22 mai 1791, Art. 1; see Durelle-Marc, “Nature et origines du droit de pétition”, 54-58; Preuvot, “Le droit de pétition: mutations d'un instrument démocratique”, 73-97.

<sup>3</sup> Constitution française, 1791 -Titre premier, Dispositions fondamentales garanties par la Constitution.

petition (a right that could not be suspended or restricted), which was absent from the *Déclaration* of 1789 and would disappear again in the *Déclaration des droits de l'homme* of the Constitution of the Year III.<sup>1</sup> Article 122 of the Constitution guaranteed the right to petition to all Frenchman, without reference to the distinction between individual and collective petitions.<sup>2</sup>

The more moderate Constitution of the Year III, promulgated in August 1795 within the framework of the Directory, reaffirmed the right to petition, although it never used the term “right” in relation to petitions, but rather the expression “freedom to address petitions”. This right was granted to all “citizens”, a stricter category than “Frenchmen” in the Year I Constitution, since Article 8 defined citizens as men born and resident in France; over 21 years of age; registered in the civil register; and paying direct, patrimonial or personal taxes.<sup>3</sup> In line with the Constitution of 1791, only individual petitions were given legitimacy; moreover, the reference to respect for the constituted authorities to which petitions had to conform was introduced for the first time.<sup>4</sup>

It was precisely the French Constitution of Year III, which was of a moderate nature, that was the reference model for the constitutions of the Italian Revolutionary Triennium. Article 388 of the 1797 Constitution of the Cispadane Republic (which included Modena, Reggio, Bologna, and Ferrara and was one of the first “sister republics” to be established in Italy) stated that “every citizen is free to petition the public authorities individually. He may still address petitions to any constituted authority, and to any authorised corporation, but only on a matter falling within their jurisdiction. In petitions, moreover, the respect due to the constituted authorities must never be forgotten.”<sup>5</sup> The article was strongly inspired by Article 364 of the French Constitution. It did not use the word *right* (“diritto”) in relation to petitions, but *possibility* (“facoltà”); it referred to the category of “citizens” and not the more general category of individuals; it required respect for the authorities; and it made it explicit that

<sup>1</sup> *Déclaration des droits de l'homme*, Constitution an I (1793), Art. 32.

<sup>2</sup> Constitution française, 1793, Art. 122.

<sup>3</sup> Constitution française, 1795, Art. 364.

<sup>4</sup> *Ibidem*.

<sup>5</sup> Costituzione della Repubblica Cispadana, 1797, Art. 388. The previous Constitution of Bologna of 1796 and the Organisation of the Provisional Government of Brescia of 1797 made no reference to the right of petition.

petitions must be submitted by individuals. Compared to the French constitution, however, the passage stating that no association could present collective petitions was removed. The Italian constitutional text was thus less clear-cut on the question of the admissibility of collective petitions.

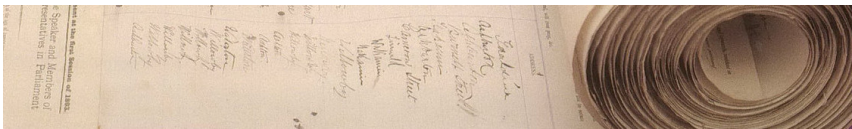
A change was made in the Cisalpine Constitution of July 1797, promulgated with the birth of the Cisalpine Republic (following the union of the Cispadane Republic and the Transpadane Republic), and largely imposed by the French authorities. Not only was it decreed that “no individual or association may present collective petitions except to the constituted authorities, and only on matters pertaining to them”, but also, through an addition to the French Constitution, that no one could “arrogate to himself the status of sovereign people”. Any violation of this article was considered as “an attack on public security”.<sup>1</sup> Certainly, by adopting a moderate perspective, the Cisalpine Constitution strengthened the ban on collective petitions, which were understood as petitions on behalf of the people or representing a section of society. But the legislation left open the possibility of petitions signed by several individuals, even on issues of public interest, and were therefore potentially more politically charged. The Constitution of the Ligurian Republic, adopted in December 1797, was explicit in this regard. Article 359, which regulated the right of petition, reproduced the passage from the Cisalpine Constitution that made it illegal to “petition or represent anyone in the name of the people, much less arrogate to oneself the status of sovereign people. Any violation of this article is an attack on public security, and offenders will be arrested, and tried according to the law.”<sup>2</sup> The Constitution made it

<sup>1</sup> Costituzione della Repubblica Cisalpina, 1797, Art. 365—“All citizens are at liberty to address petitions to the public authorities; but they must be individual ones: no association may present collective petitions except to the constituted authorities, and only on matters pertaining to them. Petitioners must never forget the respect due to the constituted authorities. No individual or particular association may petition or represent anyone in the name of the people, much less arrogate to itself the status of sovereign people. Any violation of this article is an attack on public safety.”

<sup>2</sup> Costituzione del Popolo ligure, 1797, Art. 359—“Any individual may submit a petition to the constituted authorities. Several individuals may submit petitions, provided that they are signed by each of them. No association may submit petitions collectively, except to the constituted authorities and only on matters relating to their duties. No individual or particular association may petition or represent anyone in the name of the people, much less arrogate to itself the status of sovereign people. Any violation of this article is an attack on public safety, and offenders will be arrested and tried according to the law.”

clear, however, that not only “any individual” (formally extending the right to a broader category than “citizen”), but also “many individuals” were entitled to petition the constituted authorities, provided that they were “signed by all”. Petitions signed by several individuals were thus openly permitted.<sup>1</sup>

The article was modified again with the second Constitution of the Cisalpine Republic, which was proclaimed in September 1798 and reflected the authoritarian turn of the French General Trouvé. Article 364 of the French Constitution of 1795 was also faithfully copied, this time without any changes or additions, against the backdrop of the progressive narrowing of the Cisalpine Republic’s autonomy in relation to the French Directory. Article 358 of the new Cisalpine constitution stated: “All citizens are at liberty to address petitions to the public authorities; but they must be individual ones: no association may submit collective petitions, except to the constituted authorities and only on matters relating to their duties. Petitioners must never forget the respect due to the constituted authorities.”<sup>2</sup> It was precisely this formulation that gained currency in the Italian context: the same provisions were adopted, without any changes, in the Constitution of the Roman Republic of March 1798 and in the Constitution of the Neapolitan Republic of 1799, in articles 352 and 408, respectively.<sup>3</sup>



<sup>1</sup> *Ibid.*

<sup>2</sup> Costituzione della Repubblica Cisalpina, 1798, Art. 358.

<sup>3</sup> Costituzione della Repubblica Romana, 1798, Art. 353—“All citizens are at liberty to address petitions to the public authorities; but they must be individual ones: no association may submit collective petitions, except to the constituted authorities and only on matters relating to their duties”; Costituzione della Repubblica napoletana, 1799, Art. 408—“All citizens are at liberty to address petitions to the public authorities; but they must be individual ones: no association may submit collective petitions, except to the constituted authorities and only on matters pertaining to them. Petitioners must never forget the respect due to the constituted authorities.”

### 3. The right to petition in the debates of the Grand Council of the Cisalpine Republic

Giuseppe Compagnoni was a leading political figure in the Cispadane Republic and later in the Cisalpine Republic who held the first chair of constitutional law in Europe, which was established in Ferrara in 1797. In his *Elementi di diritto costituzionale democratico* (1797), he defined the right to petition as a “sacred right [...], which no magistrate can restrict without sacrilege” and again as a “holy and precious right”.<sup>1</sup> The right to petition was closely linked to the system of government of representative democracy, since it was the instrument by which “the people” expressed their consent to the laws passed “by their representatives”. It consisted in “requesting from the constituted authorities whatever is deemed just and useful, not so much for private citizens as for the people as a whole.” Compagnoni emphasised that although this right guaranteed “the people’s freedom” in representative democracies, it had received but little attention.<sup>2</sup>

In fact, apart from these remarks in the *Elementi di diritto costituzionale e democratico*, it is difficult to find any references to the right to petition or reflections on the phenomenon of petitioning either in revolutionary publications intended for the education of the people and the dissemination of new revolutionary ideas, or in treatises on politics and political law. We need to turn our attention elsewhere, to a different kind of source, to find some articulate considerations of the right to petition and on petitioning as a political and legal category. These are the debates of the Cisalpine Republic’s legislative assembly, and in particular the debates of the lower chamber, the Grand Council, to which citizens’ petitions were to be addressed.

It was especially in the first months of the Grand Council, until the *coup d’état* by the French General Trouvé and the imposition of the new constitution which was approved in September 1798, that the deputies considered petitioning as a political category. The first session of the assembly was held on 22 November 1797, and the first mention of petitions in the minutes dates from 4 December

<sup>1</sup> Giuseppe Compagnoni, *Elementi di diritto costituzionale democratico ossia Principj di giuspubblico universale...*, (Venezia: Pasquali, 1797), 239-20.

<sup>2</sup> *Ibid.*, 240-241.

of the same year. A version of the Grand Council's plan for policing and regulation, which was discussed on 6 December, stipulated that petitions were to be read, in full or in part, by one of the secretaries during the sessions every ten days.<sup>1</sup> The petitions were to be addressed to the bureau and forwarded by them to the president.<sup>2</sup> Only a few days later, however, on 11 December, some representatives put forward a proposal to set up a special committee with the task of examining petitions.<sup>3</sup> The aim was to prevent the reading and discussion of petitions by the assembly from slowing down their work too much. Angelo Perseguiti, the future Minister of Justice and Police, promoted the initiative and proposed the procedure that would later be approved. Petitions were only accepted if they were sent to the President's office. The latter was to immediately forward the petition to the Petitions Commission for further consideration. The Petition Commission, which consisted of five members and was appointed by the President's Office, was renewed every ten days (hence the name *commissione decedaria*). On the last day of its term, the Commission would present a report on the petitions collected over the previous ten days at a session of the Grand Council. For matters that the commission considered urgent, it could submit a report on the petition in question before the appointed day. The Commission's reports were required to include the original petition and to make suggestions for possible resolutions, but the final decision rested with the assembly.

This regulation was implemented starting with the session of 13 December. Many petitions were immediately addressed to the Grand Council by citizens, but also by those formally excluded from citizenship rights, such as women and foreigners. Most petitions concerned private interests (requests for employment, subsidies, or tax exemptions; or requests related to economic activities

<sup>1</sup> "Seduta XVII, 16 frimale anno VI repubblicano" [6 December 1797], in *Assemblee della Repubblica cisalpina*, ed. Camillo Montalcini, Annibale Alberti, Roberto Cessi, L. Marcucci (Bologna: Zanichelli, 1917-1948), vol. I.1, 2602-262.

<sup>2</sup> "Seduta XI, 11 frimale anno VI repubblicano" [1 December 1797], in *Assemblee della Repubblica cisalpina*, vol. I.1.

<sup>3</sup> It was modelled on revolutionary France, which had set up the *Comité des pétitions et de correspondance* in October 1792; see: Maria Betlem Castellà i Pujols, "Métamorphoses d'un comité: le Comité des pétitions et de correspondance sous la Convention nationale", *La Révolution française* 3 (2012), <https://doi.org/10.4000/lrf.702>.

or even legal disputes), but there were also many petitions on issues of general interest, in particular proposals for new laws or law reforms. Petitions denouncing the alleged illegal behaviour of constituted authorities are a third important category. The Constitutions of the Triennium did not provide for any bodies or figures with the specific role of guaranteeing the protection of the individual citizen from the public authorities. The only exception was the draft Constitution of the Neapolitan Republic, which, in a highly original move in comparison to the French Constitution of the Year III, had provided for the *Corpo degli efori* (Council of Ephors). The role of this Council was essentially to check the constitutional legitimacy of the laws (although the Constitution would never come into force due to the sudden collapse of the Neapolitan Republic).<sup>1</sup>

In terms of ideas, however, what is of interest to us are the deliberations that these petitions aroused among the deputies, starting precisely with the way in which they conceptualised the right to petition. In this first phase of the legislature, from December 1797 until the constitutional reform of September 1798, the representatives gladly accepted petitions. They primarily interpreted petitions as a way of legitimising their political role and more broadly to guarantee the political legitimacy of the new republican-democratic system. In a situation where representatives were not elected but were directly appointed by Napoleon, the petition was a much-needed tool to ensure the accountability of deputies and the transparency of their actions. More generally, petitioning was seen as a measure of public opinion and a means of understanding the needs of the nation.

The purpose and function of petitions immediately became a point of contention between the various ideologies and political sensibilities, however. At the session of 1 February 1798, deputy Luigi Gatti expressed his reservations about the fact that the Petitions Committee sometimes read the petitions it received in their entirety, while at other times only summarised their content and reported it to the relevant committees. It was feared that the principle of equality was being violated in this way.<sup>2</sup> Gatti's address provoked a lively debate

<sup>1</sup> For an insightful analysis of the subject, see Antonello Lo Calzo, "Protosistemi di giustizia costituzionale: il corpo degli efori nella Costituzione della Repubblica napoletana del 1799", *Historia Constitucional* 14 (2013): 251-305.

<sup>2</sup> "Seduta LXXV, 13 piovoso anno VI repubblicano" [1 February 1798], in *Assemblee della Repubblica cisalpina*, vol. II, 308.

because it was intertwined with the concern, particularly in the more progressive democratic group, that the reading of petitions, often on private matters, could take too much time away from the discussion of issues of public interest in a situation of economic and social difficulty as well as political urgency. In short, it was feared that the right of petition, while necessary for understanding popular opinion, could slow down the legislative process. It was a question of striking the right balance between accountability and efficiency. Hence the priority given to petitions on matters of public interest and to petitions of complaint.<sup>1</sup>

Giuseppe Gambari, who had been a professor of civil and canon law at the University of Bologna, a former member of the Cispadane Parliament, and a radical democrat, proposed that only petitions concerning complaints and abuses should be read in full, with priority given to those coming from constituted authorities.<sup>2</sup> Less than two weeks earlier, the assembly had discussed the petition of citizen Pietro Molina, a former member of the religious order of the Olivetans. It was a petition denouncing the Minister of the Interior, Giuseppe Ragazzi, who was accused of arbitrarily reducing the pensions of the members of the suppressed convents (in violation of a provision of the legislature) and also of slandering Molina as a bad citizen and an enemy of the country. The former nobleman and moderate Scarabelli immediately denounced Molina's petition, judging it to be defamatory of the minister and therefore unconstitutional. The radical-democratic group (men such as Pietro Dehò, Bartolomeo Cavedoni, and Giacomo Greppi took the floor) instead defended the petition. They saw themselves as championing freedom of opinion and expression, the "true safeguard of democracy", but also the right to denounce the abuses of the constituted authorities through petitions. This line prevailed and the Molina petition was

<sup>1</sup> For a somewhat similar debate in the Dutch parliament in the early years of the Batavian Republic, see Joris Oddens, "Making the most of national time: Accountability, transparency, and term limits in the first Dutch Parliament (1796-1797)", in *The Political Culture of the Sister Republics, 1794-1806*, eds. by Joris Oddens, Mart Rutjes, Erik Jacobs (Amsterdam: Amsterdam University Press, 2015), 115-126.

<sup>2</sup> *Ibid.* In the end, the assembly approved the motion of Michele Vismara, a leading figure in the Cisalpine political institutions and a moderate, who proposed that petitions from the public authorities be read out in full during the sessions. However, the possibility of citizens' petitions being read out in full was not denied.



deemed legitimate, and was then referred to the ecclesiastical commission.<sup>1</sup> For the democratic groups, it was a question of defending an instrument for the protection of private citizens against the constituted authorities and the administration. As we have seen, the Constitutions of the Triennium did not provide for any bodies or magistrates for this purpose, but in the debate on the constitutional projects that took shape especially between 1796 and 1797, there were also those who reflected on the need to think about safeguards from this perspective. In his *Saggio sulle leggi fondamentali dell'Italia libera*, published in 1797, Giuseppe Abbamonti sketched the outlines of a possible national constitution that was considerably more democratic than the one later adopted. He envisaged a body called the “defenders of the people” (*difensori del popolo*), whose task would be “to see that no public official, either individually or collectively, oppresses the People, or any part of it, or any private individual.”<sup>2</sup>

This discussion of the reading of petitions in the assembly, and in particular of petitions of complaint, already suggests a degree of politicisation. But it was another issue that generated the most debate, revealing not only the opposition between moderate and democratic groups, but also the various sensitivities and positions within the same ideological camps as well as different interpretations of the right to petition and constitutional law in this regard. This was the debate on the admissibility of collective petitions that broke out in May 1798. The

<sup>1</sup> “Seduta LXV, 3 piovoso anno VI repubblicano” [22 January 1798], in *Assemblee della Repubblica cisalpina*, vol. II, 20. An echo of this discussion is found in the “Giornale senza titolo”, the organ of the most radical democratic circles in the Cisalpine Republic. In an imaginary dialogue between two reactionary aristocrats who are intent on discussing a plan to bring down the republican government, petitions on private matters were presented as a means of wasting the legislative body’s time and slowing down the passing of laws useful to society. The article also referred to the petition presented by Molina. This petition, which denounced the collective authorities, was not criticised. Instead, the invective was levelled at the moderate Scarbelli’s addresses denouncing the petition as unconstitutional (“Piano di Congiura contro la Repubblica Cisalpina, ossia Dialogo tra due Aristocratici”, in *Giornale senza Titolo* XLIX, January 1798).

<sup>2</sup> Giuseppe Abbamonti, *Saggio sulle leggi fondamentali dell'Italia libera. Dedicato al popolo italiano* (Milano: Veladini, 1797), 49. Abbamonti’s proposal was highly original in the context of the debate of the time. In two texts published in 1797, Carlo Botta and Girolamo Bocalosi referred to the need for constitutions to provide for a “tribune of the people”, a magistracy whose sole function, according to both authors, would be to guarantee the constitutional legitimacy of laws (Carlo Botta, *Proposizione ai lombardi di una maniera di governo libero* (Milano: S. Mattia alla Moneta, 1797), 167; Girolamo Bocalosi, *Dell’educazione democratica da darsi al popolo italiano* (Milano: Pogliani: 1796), 251).

Cisalpine Constitution of 1797 had banned petitions in the name of the people and was ambiguous about the legitimacy of petitions signed by several individuals, which were not explicitly regulated. In practice, a large number of petitions signed by several individuals were addressed to the Grand Council, and the assembly hardly ever decided to reject them.

Something changed at the end of May 1798, however. On 28 May, the Petitions Committee, then dominated by the moderate faction,<sup>1</sup> raised the question of the constitutional legitimacy of petitions signed by several individuals.<sup>2</sup> The reaction of the more progressive democratic groups was triggered by a petition from fourteen landowners who condemned the fact that they were still subject to the bishop's tithe, a tax that had been abolished a few months earlier and was considered a legacy of the privileges of the *ancien régime*. The most incisive speeches were those of Pietro Dehò, who once again spoke on the subject of petitions, and Felice Latuada, also a representative of that faction of the democratic wing that was most attentive to the social side of the revolutionary regeneration process. The importance of the issue demanded that the request be taken into consideration and referred to the Tithes Commission.<sup>3</sup> In the end, this line was indeed followed, but it was decided to set up a special commission to rule on the constitutionality of petitions signed by several individuals. It was a debate with a very different (and more moderate) tone from the one that had animated the French Assembly on 9 and 10 May 1791, when even Le Chapelier had unhesitatingly allowed petitions with multiple signatures.<sup>4</sup> The Cisalpine experience nonetheless remained within the purview of the culture of Directorial France. No one went so far as to assert the legitimacy of petitions advanced by political associations, while the defence of petitions with multiple signatures was a way of defending the political value of petitions, petitions that

<sup>1</sup> Important and useful information about the Petitions Committee of the Grand Council can be found in Adam Yonkers, *A Grand Council. The formation of a political generation and the Lower Assembly of the First Cisalpine Republic 1796-1799*, Tesi di Dottorato di ricerca, Corso di Dottorato in Storia, Cultura e teorie delle istituzioni e della società, Università degli Studi di Milano, a.a. 2020/2021.

<sup>2</sup> "Seduta CLXXXVIII, 8 pratile anno VI repubblicano" [27 May 1798], in *Assemblee della Repubblica cisalpina*, vol. V, 111-112.

<sup>3</sup> *Ibid.*

<sup>4</sup> "Assemblée Nationale, Séance du lundi 9 mai 1791", in *Archives Parlementaires de 1787 à 1860, Première série (1787 à 1799)*, tome XXV, 678-681.

arose from the mediation of opinions and from shared interests, potentially on issues of public interest.

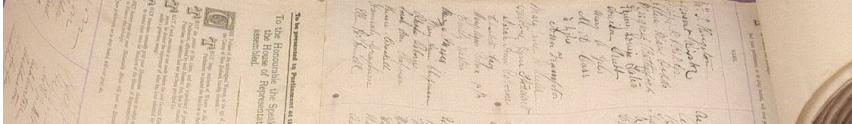
A few days later, in the session on 30 May, the Committee's report was read out, which argued that this type of petition was unconstitutional. In particular, the Committee referred to Article 367 of the Constitution, which prohibited assembly, even unarmed assembly. The ensuing debate was intense. Among the most articulate addresses were those of Celestino Bartolomeo Cavedoni and Giovanni Battista Franzini, who were representatives of the more progressive democratic group. Cavedoni argued that a petition was not collective if it was "signed individually", even by a hundred people, but only if "a single person speaks on behalf of a certain section of the people" and "makes himself its leader". Franzini made much the same argument: "the signature of a single person speaking on behalf of a number of people can be considered collective, but not when many sign regarding the same matter and the same request or report."<sup>1</sup> But even among the more progressive patriots there were differences of opinion. This was the case, for example, with Lauro Glissenti, a relatively little-known lawyer who had been a leading figure in the 1797 revolution in Brescia. For Glissenti, the constitution only permitted individual petitions, and petitions signed by several individuals did not fall into this category. "Facts do not make law," the representative argued; "when I read the article of the Constitution, I see that all petitions must be individual: what idea do we have of an individual, if not that he is one? The wording is too precise and I will never believe that it can agree with the interpretation that those who oppose the Commission's opinion want to give it."<sup>2</sup>

Pressure from the government, as part of the moderate turn and the increasingly tight control exercised by the French Directory, steered the assembly towards a more restrictive policy with regard to petitions signed by several individuals. Nevertheless, the Grand Council would continue to receive and discuss petitions of this kind, even as an act of resistance. In fact, the discussion in the assembly was closed without any real decision having been taken. The

<sup>1</sup> "Seduta CLXXXVIII, 11 pratile anno VI repubblicano" [30 May 1798], in *Assemblee della Repubblica cisalpina*, vol. V, 180-181.

<sup>2</sup> "Seduta CLXXXVIII, 11 pratile, anno VI repubblicano" [30 May 1798], in *Assemblee della Repubblica cisalpina*, vol. V, 180-181.

last speech was that of Compagnoni, who, without taking an explicit position, stressed the importance of thinking about the article of the Constitution dedicated to petitions: “perhaps (...) the most interesting article, since it is the one that relates to the will of the people.”<sup>1</sup>



## 4. Conclusions

Compagnoni was to express his views quite clearly outside the assembly a couple of months later, in an article published in early August 1798 in “*Monitore Cisalpino*” (the periodical which he had founded in April 1798 and which took a more conciliatory stance towards the government’s moderate policies). The article, entitled “*Diritto di petizione*” (“Right to Petition”), is undoubtedly the most articulate analysis of the subject published not only in the context of the Cisalpine Republic, but in Italy in general during the revolutionary period.<sup>2</sup> Compagnoni partly took up and developed the ideas on the right to petition which had already developed in *Elementi di diritto costituzionale e democratico*. The right to petition was a fundamental instrument for the proper functioning of the representative political system. It served to correct any errors on the part of the representatives in their interpretation of the “general will”. “If this right to petition did not exist”, Compagnoni asserted, “what guarantee would the people have against the mistakes of their representatives, since their representatives, like all other men, can err in exploring and announcing the general will?” On this level, in a line of argument that closely followed a passage from Boissy d’Anglais’ *Discours préliminaire au projet de constitution pour la*

<sup>1</sup> *Ibid.*

<sup>2</sup> Giuseppe Compagnoni, “*Diritto di petizione*”, in *Monitore Cisalpino* 42, termidoro anno VII [August 1798].

*République française*, the right to petition was contrasted with the “terrible right to insurrection” that the “French demagogues” had adopted in the Constitution of 1793 in their “frenzy to reach all excesses”.<sup>1</sup>

Compagnoni’s main focus, however, was on the issue of collective petitions, which was absent from the *Elementi di diritto costituzionale e democratico*: he devoted over half of his article to this issue. Compagnoni noted that the Constitution “rightly” required that the right to petition be limited to the individual. The general will results “from the plurality of the wills of particular subjects”, but these in no way correspond to the individual interests. In order to identify the public interest, it is necessary to act individually and to avoid mutual influence (“in associations it is too easy for intrigue or the unexpected to prevail”). At the end of this line of reasoning, however, Compagnoni made it clear that petitions signed by several individuals were not collective petitions. Indeed, it was not “the material affixing of several individual signatures” that made a petition collective; by signing the petition, individuals did not become a collective association, i.e. a group of people with their own political subjectivity.<sup>2</sup>

Compagnoni’s article fed directly into the ideas and reflections that had taken shape in the Grand Council’s debates, which were also circulated outside the assembly through the printing of the public sessions’ minutes (such printing was sanctioned by the Constitution). The part of the article devoted to the issue of collective petitions was also immediately republished in the pages of the newspaper “Quotidiano Bolognese”, which took a far more progressive political stance than the moderate “Corriere Milanese”. Indeed, the article ended with an attack on those public authorities that did not accept petitions signed by several individuals (an attack that was absent from Compagnoni’s original text), revealing the ongoing clash between the executive controlled by the French Directorate and part of the legislative body.<sup>3</sup> Government conservatism reached its

<sup>1</sup> François-Antoine de Boissy d’Anglas, *Discours préliminaire au projet de constitution pour la République française, prononcé par Boissy-d’Anglas, au nom de la Commission des onze, dans la séance du 5 messidor, an 3* (Paris: Imprimerie nationale, 1795). Two Italian translations appeared as early as 1795—one in Modena, from the printer Domenico della Brida, and one in Florence, from the printer Giuseppe Stecchi. A third translation appeared in Venice in 1797. In his article, Compagnoni praised the Constitution of 1795, to which Boissy d’Anglais had contributed significantly.

<sup>2</sup> The second part of the article was republished in instalments from 1 to 7 August under the title of “Teoria sulle petizioni” (*Quotidiano bolognese*, n°1, n°4-5, n° 6, n° 7, 1-7 August 1798).

<sup>3</sup> “Therefore, those Constituted Authorities who do not wish to receive petitions signed by several

peak in August 1798, when General Trouvé's coup d'état took place, leading to the closure of constitutional circles, the restriction of freedom of the press, and the removal of those Grand Council members who were deemed undesirable. In that complex political phase, defending the legitimacy of petitions signed by several individuals came to be seen, on the one hand, as a way of defending the right to petition based on the people's sovereignty, and on the other as the defence and vindication of the role of the legislative body in expressing the interests of the community as well as the general will.

The end of the Revolutionary Triennium would mark the disappearance of the right to petition from the constitutions of Italy. The 1802 Constitution of the Italian Republic, through which the Cisalpine Republic was transformed, already made no reference to the right to petition (which also disappeared from the French Constitution of 1802), and the same was true of the constitutions issued throughout the Napoleonic period. It was only with the revolutions of 1848 that a reversal took place, when the *Statuto Albertino* (1848) reinstated the right of petition for "every person of age", stipulating that petitions had to be addressed to Parliament and recognising only the constituted authorities as having the right to submit "petitions in their collective capacity".<sup>1</sup>



individuals should abandon their error, for even the Legislative Body accepts them, knowing that to reject them would be to misinterpret the Constitution, from which the Constituted Authorities must never deviate" (*Quotidiano bolognese* 7, 7 August 1798).

<sup>1</sup> Statuto Albertino, 1848, Art. 58—"No petition may be presented in person to either Chamber. No persons except the constituted authorities shall have the right to submit petitions in their collective capacity".

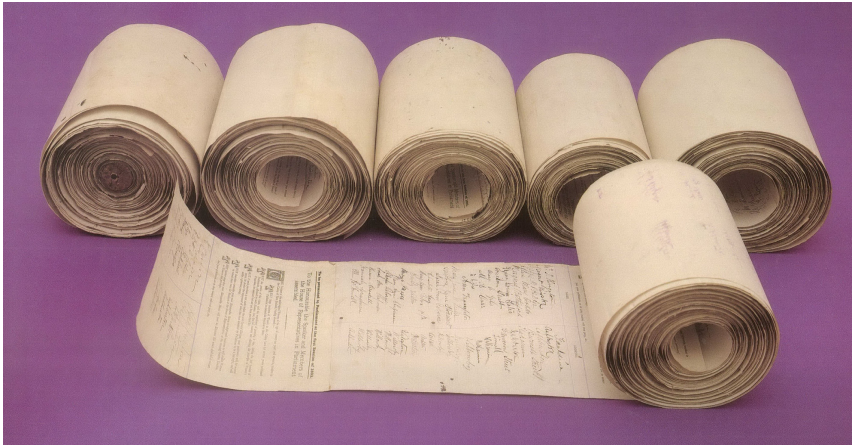
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