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Siena – Milano, 10-12 luglio 2017

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INTRODUZIONE

If one scholar looks at the life and works of Guido Tedeschi from the Italian coast, a vacuum might be clearly perceived. An emptiness of regret and excuses that he and his family deserve from our Europe, from our Country, from all Italian Academy and from my very University. Excuses, at least in terms of the duty of lasting memory, which we European still own towards so many families all over the world. Professor Tedeschi deserves recognition in Italy.

This conference, in my personal perspective, is a way – certainly minimal and imperfect – to address this vacuum. A minimal drop, “ὡς σταγὼν ὕδατος ἀπὸ θαλάσσης καὶ ψῆφος ἄμμου”¹.

The rich program of this Conference² indeed shows how Guido Tedeschi was a key figure for both Italy and Israel and for the Universities of Siena and Jerusalem. He was a distinguished scholar who contributed so much to build the Israeli rule of law, expelled from the University of Siena and forced to emigrate by an evil law, so extraneous to our civilization.

I would like to sketch just some aspects of the cultural and juridical context in which Guido Tedeschi lived.

During the Humanism, Jews were considered supporters of the idea of tolerance, as showed by the Melchisedech’s novel by Giovanni Boccaccio. By contrast, the same period showed in Italy the grown and strengthened of a theological doctrine called “compelle intrare”³. The doctrine asked for the conversion to the Catholicism even of the Jews who were confined in the “ghettos”. For many century onwards Jews not accepting to convert themselves were compelled to vest a distinctive sign (a yellow round dot) in force of the Canon n. 68 of the IV Lateran Council of 1215⁴. This canon stated: “we

¹ Σοφία Σεράχ, ch. 18.10: “as a drop of water of the sea and as a pebble of the sand”.

² See Program at the end of this Introduction.

³ See P. BAYLE, *A Philosophical Commentary on These Words of the Gospel, Luke 14.23, “Compel Them to Come In, That My House May Be Full”*, Indianapolis 2005.

⁴ See A.H. THOMPSON, *Medieval doctrine to the Lateran council of 1215*, in J. R. Tanner, C. W. Previt -Orton, Z. N. Brooke (eds), *The Cambridge Medieval History. Vol. VI. Victory of the Papacy*, Cambridge 1957, pp. 634 ff.

decree that such Jews and Saracens of both sexes in every Christian province must be distinguishable from other people through their clothing". A long history of intolerance have developed since that time.

The emancipation generated by French Revolution included the Jews, making them (formally) equals to everybody else. The revolutionary ideals spread along Europe with the Jacobins' protests and were stated in their Constitutions. The Reaction and the Restoration of the *Ancien Régime* drove back Europe to intolerance.

In Siena (and in the south of Tuscany, in general: Arezzo, Monte San Savino), for examples, the reaction to the revolutionary ideals took place in 1799 with an obscure and horrific episode of intolerance, known as "Viva Maria" (Hurray to Mary!)⁵: the ghetto was devastated and thirteen innocent victims were burned in Piazza del Campo by an horde led by a woman⁶. Hopefully, this terrible episode remained an isolated case in the tolerant Tuscany. As a matter of fact, we cannot forget that Tuscany and Siena, in particular, gave birth to the Socini (Lelio and Fausto), two apparently minor Italian reformers belonging to the bourgeoisie of the Gown. They proposed an integral reform of the Christian religion on rational bases. According to a famous Italian Scholar, Francesco Ruffini⁷, Socinianism gave out the idea of tolerance and, therefore, of religious freedom which spread throughout Europe and the world. Socinians, indeed, persecuted even in Protestant countries, took refuge in Poland and then in the Netherlands, where some major exponents of the tolerant thinking acted, such as Baruch Spinoza⁸, John Locke⁹ and Pierre Bayle¹⁰.

The ideals of tolerance and equality got stronger and stronger.

The Kingdom of Sardinia (which then became the Kingdom of Italy)

⁵ See G. TURI, *Viva Maria. Riforme, Rivoluzione e Insorgenze in Toscana (1790-1799)*, Bologna 1999.

⁶ The Jacobine protests in Tuscany were reported by Alfieri in his autobiography. See M. STERPOS, *Il misogallismo alfieriano e gli avvenimenti toscani dell'anno 1799*, in G. Tellini and R. Turchi (eds), *Alfieri in Toscana: atti del Convegno internazionale di studi, 19-20-21 ottobre 2000*, Firenze 2002, vol. I, pp. 323 ff. See V. ALFIERI, *Vita di Vittorio Alfieri scritta da esso*, Roma 1956, Epoca IV, Parte II, ch. XXVIII.

⁷ See F. RUFFINI, *Studi sui riformatori italiani*, Torino 1955; IDEM, *La liberta religiosa : storia dell'idea*, Milano 1967, pp. 41 ff.

⁸ See *Tractatus theologico-politicus* 1670.

⁹ See *Epistola de tolerantia* 1689.

¹⁰ See *Commentaire philosophique sur les paroles de Jésus Christ: "Contrains-les d'entrer"* 1686.

granted equal rights to the Israeli Subjects (“regnicoli israeliti”) in 1848 with a Patent Letter by the King Carlo Alberto.

A long and important period of tolerance and integration followed in Italy. The Italian Jews became an important part of the ruling class. The capture of Rome in 1870 and the administration of the Capital are good examples: after a cannonade of three hours, the Aurelian Walls at Porta Pia were breached. The very order to start the cannonade came from a young Jewish Captain, Giacomo Segre. In 1907 Ernesto Nathan became the Major of Rome, the first in this position outside the landowners class which had always ruled the city since the Unity.

This was the Italian contest where Guido Tedeschi was born¹¹.

However, the cultured Jews, like the family of Guido Tedeschi, were aware of the fierce hostility that periodically affected distant Jewish communities (such as in France, Germany and Russia). Guido Tedeschi referred that his father feared the risk of a resurgent anti-Jewish hostility. They lived indeed in a world much more smaller than the present one¹².

In 1938, when the Italian Racial laws, promulgated by the Fascist Regime, hit the ancient University of Siena, Guido Tedeschi was “Professore straordinario” in civil law, an academic position immediately below that of “Full Professor”. Guido Tedeschi was expelled because Jew, even if the Head of the Faculty and the Rector expressed regret for such a brilliant researcher.

Guido Tedeschi’s decision to leave for Mandatory Palestine was probably influenced by the Zionist connection he had long before the fascist regime became racist. After a classical education typical of the Italian middle class, Guido Tedeschi got in contact with Dante Lattes (1876-1965)¹³. Lattes was an eminent figure, founder of the “Rassegna Mensile di Israele” in 1925, the same year the *Mein Kampf* by Adolf Hitler was published: while *My Battle* ignited the Germans’ souls with virulent hatred against the Jewish people, the Dante Lattes’ Review hosted cultural debates and historical-philosoph-

¹¹ On Guido Tedeschi, see I. ENGLAND, *Guido (Gad) Tedeschi at Eighty: A Tribute*, in “Israel Law Review”, 1986, pp. 247 ff.; A.M. RABELLO (ed.), *Professor Gad (Guido) Tedeschi : in memoriam*, Jerusalem 1994; A. BARAK, (ed.), *Essays in memory of professor Guido Tedeschi : a collection of essays on jurisprudence and civil law*, Jerusalem 1995; N. CORDISCO, *Università e fascismo: il caso senese*, Firenze 2012, pp. 153 ff.; G. CIANFEROTTI, *Le leggi razziali e i rettori delle Università italiane* (con una vicenda senese), in “Le Carte e la Storia. Rivista di storia delle istituzioni”, 2004, pp. 15 ff.; A.M. RABELLO, *Intervista al prof. Guido Tedeschi*, in “La Rassegna mensile di Israele” 1992, pp. 119 ff.;

¹² See A.M. RABELLO, *Intervista*, cit., p. 123.

¹³ See A.M. RABELLO, *Intervista*, cit., p. 124.

ical divulgation of Italian Judaism, to which Guido Tedeschi also took part.

Notwithstanding the initial difficulties due to the uncertainty in the Middle East, Guido Tedeschi's decision saved him from Jews' doom in Europe.

Professor Guido Tedeschi became one of the founder of the Faculty of Law of the future Hebrew University of Jerusalem and largely contributed to establish the rule of law in the State of Israel.

The first day of the Conference celebrates this strongest link between the University of Siena and Jerusalem.

The second part of the Conference, held in the prestigious Bocconi University, shows very well how Tedeschi has been a leading scholar both in Italy and Israel.

MARIO PERINI