canonical and institutionally focused in its treatment of absolution than B. Such a change might reflect a cautious rewrite in C to avoid association with the views of Wycliffe (who was critical of the Church's use of indulgences). Thomas, however, claims that the C-version's approach to penance destabilises the canonical theory of penance by making it uncertain (a future hope, rather than a present reality). Once more, this is seen as a case of 'reinventing' canon law.

The book lacks a conclusion which, considering the density of the previous chapters, is a pity and leaves the work without a final sense of a clear and persuasive argument. A brief epilogue describing Luther's burning of canon law books in 1520 leads to the suggestion that the Reformation brought to a close an epoch in which non-canon-law texts (like *Piers Plowman*) might once have played a role in the formation of the Church's laws. Yet the case that *Piers Plowman* did, in fact, ever contribute to 'co-producing the law' (p 18) remains unproven. Langland's poem clearly expressed a variety of views about canonically regulated practices, including confession. Perhaps we might term these 'reinventions', and they may have influenced readers, but we are presented with no evidence whether, how or with what effect they did so. A legally informed satire, certainly; but to claim that *Piers Plowman* was a 'co-producer' of late mediaeval canon law, on the grounds presented, goes too far.

Mark Laynesmith
Anglican Chaplain, University of Reading

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Libertà religiosa e nazionalità in Francesco Ruffini, con l'edizione di *Sionismo e società delle nazioni* (1919)

Beatrice Primerano with preface by Diego Quaglioni
Il Formichiere, Foligno, 2020, Piccola biblioteca del pensiero giuridico, 141 pp (paperback €20) ISBN: 978-88-31248-20-4

Twelve years before refusing, with only a handful of other Italian academics, to pledge fealty to the fascist regime, Francesco Ruffini published a pithy booklet entitled *Sionismo e società delle nazioni* (Bologna, 1919), in which he unequivocally supported the cause of Jewish statehood, which was, at the time, under consideration at the Peace Conference in Paris. Since its first appearance, however, the urgency of Ruffini's call has been mostly neglected by students of his thought. So it is particularly meritorious that, by joining forces with her publisher and her series' editor, Beatrice Primerano has returned the booklet to print in a newly introduced and annotated edition that highlights the critical importance of this work for the history and development of public law in Europe across the nineteenth and early twentieth centuries.

As shown by Primerano in her compelling Introduction, Ruffini saw the cause of Zionism and Jewish statehood as one of the main contemporary points of convergence between the two principal motifs of his historical and doctrinal scholarship: religious freedom and national liberty. By converging in Zionism and its political aspirations, these motifs did not simply thrown into relief the foundational principles on which nineteenth-century jurisprudence had erected modern systems of public law (p 13) but brought to the foreground of Ruffini's historical investigation and constitutional advocacy the lasting challenge of defining the boundaries between the domain of power and the domain of the sacred (p 18).

Those were, in fact, the days in which the creation of a new world order had come to be the most pressing issue on the agenda of global powers. The Allied victory that had concluded the First World War brought about a season of resurgent national claims, epitomised by political Zionism, that sought to restore the spoiled relationship between national assertions of freedom and individual liberty. The was itself had been a '*bellum iustum*, a justified war of principles' (p 28) between two irreducible and conflicting conceptions of nationhood that pitted the racially charged and authoritarian Germanic conception of nationalism (p 86) against the historically universalistic conception of nationhood championed by a tradition of Italian legal thought, equally drawing from the revolutionary doctrine of Giuseppe Mazzini and the pioneering international law scholarship of Pasquale Stanislao Mancini (p 86).

According to Ruffini, the merit of this Italian conception was recognising national claims as being assertions of a spiritual unity emanating from the collective conscience of a people, rather than from natural, racial or simply territorial bonds. Therefore, it was only according to this restorative perspective that the pursuit of national independence revealed itself to emanate from the same liberty of conscience as that at the root of religious freedom. And it is because of such a framework that Ruffini's justification of Jewish statehood concentrated in its analysis of Zionism a comprehensive interpretation of those opposing conceptions of nationhood that agitated modern European history and would eventually inform the historiographical tradition leading to and reinvented by Benedetto Croce's masterful *Storia d'Europa nel secolo decimonono* (1932).

While recognising just how 'meagre and fragile' (p 36) the barriers set up by Mazzini and Mancini would prove to be once confronted with the totalitarian involution of nationalisms that Ruffini himself would have to face, Primerano proves that those doctrines provided Ruffini with the legal basis he needed to claim that the creation of the Jewish nation-state had become 'an obligation under international law' (p 37). And it was in order to interpret the content of this obligation that Ruffini examined Zionism in its several denominations. Particularly significant is Ruffini's clear sympathy for the cultural Zionism of Asher Ginzber, who had bitterly criticised 'any movement … that sought

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Jerusalem for purely philanthropic, political or economic purposes and not to make of it a national spiritual centre, a flaming hearth of Jewish life and culture' (p 67). Yet no such centre could legitimately aspire to take its place among the League of Nations had the spiritual heritage of Judaism not been embodied by a legal subject endowed with statehood (pp 107–108). Only this national solution, envisioned by the political Zionism of Theodor Herzl, would prove to be, according to Ruffini, the 'radical remedy' to the anti-Semitic frenzy that had afflicted Europe at least since the days of the Dreyfus affair (p 56).

Assimilation, on the other hand, provided no such solution. This is, in fact, the concern that both opens and closes Ruffini's book. The social and racial prejudices against Jews that had fomented nineteenth-century anti-Semitism in France (and more generally in Europe) could have perhaps been overcome had 'mixed marriages' (p 56) succeeded in breaking down that system of casts which, far from having been overturned by the French Revolution, had become ever stronger in its aftermath, as witnessed by such eminent authorities as Stendhal and Tocqueville. This may be one of the most exemplary pages in Ruffini's book. Though he never cites nineteenth-century French literature, there can be little doubt that this great historian of public law, who saw in George Eliot's *Daniel Deronda* one of the most moving exhortations to restore Jerusalem, thought about the failings of contemporary society through the jurisprudential tradition of Western literature: 'If you want to ascertain whether castes, and the ideas, habits and barriers to which they give rise, are really abolished in any nation, look at the marriages which take place there.[1] Yet, assimilation had not only been prevented by the prejudices that undermined the possibility of mixed marriages. It needed to be prevented from frustrating the recognition that the Jewish people could only survive the risk of 'vanishing forever as a nation' (p 108) by recognising the necessary relationship between conscience and personhood, doctrine and action or, to put it in other words, between individuality and norm. Hence – as noted by Diego Quaglioni in the Preface that both introduces Primerano's edition and places Ruffini's book within the series entitled *Piccola biblioteca del pensiero giuridico* ('Small library of legal thought') – *Sionismo e società delle nazioni* participates in the 'attempt to integrate an eminently political and religious problem into the domain of the law' and, by so doing, fundamentally contributes to that 'juridification of politics' that traverses twentieth-century constitutionalism (p 8).

This is why Beatrice Primerano's invitation to read Ruffini's treatment of the Zionist question as 'a problem of justice' and of its history (p 27) could not be

1 'Voulez-vous savoir si la caste, les idées, les habitudes, les barrières qu'elle avait créées chez un peuple y sont définitivement anéanties: considérez-y les mariages.' A de Tocqueville, *L'ancien régime et la révolution* (Paris, 1856), ch 9.

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more welcome at a time of renewed commitment to the religious implication of the Western legal tradition. Her critical apparatus alerts us to the lightness with which Ruffini wore his ingenuity and the sureness with which this pre-eminent interpreter of ecclesiastical law was capable of descending into the depths of history and legal investigation by taking the shortest possible path.

ANDREW J CECCHINATO
University of St Andrews
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Freedom of Religion: An Ambiguous Right in the Contemporary European Legal Order

Edited by HEDVIG BERNITZ AND VICTORIA ENKVIST
Hart, Oxford, 2020, Swedish Studies in European Law 14, xx + 204 pp (hardback £80)
ISBN: 978-1-50993-586-4

This collection reviews the ambiguities of the right to religious freedom against the backdrop of a changing Europe. In their Preface the editors observe the growing importance of religion in public life and the controversies over individual and collective rights that this has generated in domestic and international legal systems. The first contribution, by Pamela Slotte, notes that the ambiguity of concepts such as 'freedom' create unavoidable anxieties as well as uncertainty, with the legal contours of secularism acting both as a cage constraining religious expression and as a protective barrier against the more aggressive claims of religion. Next, Joakim Nergelius argues that religious freedom is well entrenched in modern Swedish constitutional law, having been developed over centuries to keep pace with the nation's changing religious landscape. Reinhold Fahlbeck concludes the first part of the book with an essay on the impact of religion on labour and social legislation, noting its negligible direct impact on these branches of Swedish law.

Part 2 of the book opens with a piece by Ronan McCrea on European Union (EU) law's approach to often privileged religious majorities. He concludes that law is rushing in to fill the void left by dissipating shared norms at the national and continental level, the likely result being increasingly fractious cultural warring and litigation. Patrik Bremdal focuses on Islamic headscarf litigation in the European Court of Human Rights (ECtHR) and observes how negative connotations assigned to it in early case law have rippled out, permeating almost every subsequent decision on that particular type of religious garb. He attributes this to 'a Christian and European perspective' (p 73) which treats Christian symbols with greater leniency. Karin Astrom's essay interrogates the relationship between the freedom of religion and other human rights such as