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The French Revolution, Napoleon, and the Jews

by

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The French Revolution, Napoleon, and the Jews*

This paper brings together ideas from several interests: the Western political tradition, Jewish history and human rights. The issues addressed are:

- Why the French Revolution was a watershed in the Western political tradition.
- The debate before and during the Revolution known as ‘The Jewish Question’, and Napoleon’s role in that debate.
- The ambiguous resolution of the ‘Jewish Question’.
- The legacy and implications for today regarding the relationship between the state and religion in the West.

Why there was a ‘Jewish Question’ in the 18th century requires an understanding of the following:

- Jews were the largest and most visible non-Christian minority in Western and Eastern Europe.
- They conducted their lives according to the *Torah*—the laws and values that regulated individual and communal life for the Jews. Jewish courts adjudicated according to the *Torah*. Jews owned their own cemeteries and schools, their own butchers, and taxed themselves. The position of Jews approached something like self-government.
- In the Middle Ages, most Jews in Europe lived in towns and villages in eastern and central Europe, as artisans, small merchants and farmers, and were prohibited by the Christian authorities from moving into cities.
- The church, kings, princes and local authorities imposed limitations on the Jews: special taxes, special clothing or badges to distinguish

*This talk was delivered by Michael Nutkiewicz at the India International Centre on 27 February 2018.

them from Christians; restrictions of residency and land-owning; joining guilds and other economic barriers.

- In some countries, however, a small number of Jews played an important role in finance through money-lending and international trade on behalf of their Christian rulers. They were well positioned for such a role because Jews were the only group in the Middle Ages and in the early modern period with near-universal literacy, and because a network of fellow Jews were found throughout Europe.
- Because of this important financial role, some Jewish communities were protected by Christian authorities but also existed at the whim of these rulers. Throughout the Middle Ages, Jews were exposed to periodic violence and expulsions:
 - France: 1182 (recalled in 1198); 1254 (then recalled); 1306 (recalled in 1315); 1322, 1394, etc.
 - England: 1290 (recalled in 1657)
 - Spain: 1392–1492 (a century of pogroms, forced conversions and expulsions)

The Pre-Modern Political Worldview

From the Middle Ages until the American and French Revolutions, every individual (including Christians) was a member of a group ('a corporation'). One's identity was based upon a person or a group's standing in society, which was regarded as inherent (God-given). One's place in society was also dependent upon the class in which one was born, origin, locality, profession and religion. This was the corporate system of pre-modern Europe. The concept of 'equal rights' or 'citizen' did not exist before the 18th century. The American and the French Revolutions destroyed the concept of hereditary rights and the corporate system. The revolutions introduced the idea that individuals were citizens equal before the law. Further, the revolutionaries held that sovereignty lies in the people, not the king. The framers of the French Revolution wrote in

the *Declaration of the Rights of Man* (1789): Article 1: ‘All men are born and remain, free and equal in rights; social distinctions cannot be found but on common utility....’ Article 10: ‘No person shall be molested for his opinions, even such as are religious, provided that the manifestation of these opinions does not disturb the public order established by the law.’ The idea of ‘citizen’ was so powerful that the majority of leaders in the French Revolution believed that it was their moral duty to extend equality to all men.

Not everyone was emancipated by the French Revolution. For example, the status of slaves and women did not change. But for most men living in France in 1789, the revolution brought voting rights. Protestantism was legalised, giving Protestants the right to register marriages, births and deaths. As the revolution became more radical, Roman Catholicism was rejected as a state religion and the church’s properties (representing about 6 per cent of France’s land) were nationalised.

The Jews, however, were not emancipated for two more years (1791). The French National Assembly hesitated over the question of whether the Jews of France were to be included within the meaning of the *Declaration of the Rights of Man* (1789). Why?

For the revolutionaries—most of whom were atheists—the issue was not theological. For them, the question was whether the Jews were ready, prepared and worthy of entering modern society. Let us remember that for almost 2,000 years, Jews had conducted their lives according to Jewish law, did not intermarry, and were segregated (both forcefully and voluntarily) from Christian society. This allowed them to retain their unique collective identity.

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The ‘Jewish Question’

The status of the Jews had been discussed well before the revolution. In 1785, for example, the city of Metz held an essay contest. The question was: ‘Are there means of making the Jews happy and more useful in France?’

Three ‘camps’ emerged from the debate about whether the Jews deserved to be emancipated.¹

- ‘Impossibilist’: Jews are innately corrupt and should not be emancipated. The conservative Catholic Johann David Michaelis exemplified this position: ‘The Jewish brain is more harmful and more corrupted than that of other Europeans.’
- ‘Unconditionalists’: Jews must be emancipated. Pierre-Louis Lacretelle, a lawyer in eastern France, argued that it was illogical and unfair to deny Jews the same rights as other people.
- ‘Conditionalists’: Jews can be emancipated with certain conditions. This camp was exemplified by Abbe Henri-Baptiste-Gregoire, a parish priest in a small village in Alsace whose winning essay was entitled: ‘Essay on the Physical, Moral, and Political Regeneration of the Jews’.

The ‘Conditionalist’ point of view was the majority position before the Revolution. The excerpt from Abbe Gregoire’s essay illustrates this position:

The Jews, every where dispersed, yet no where established, have only had the spirit of a body which is entirely different from the spirit of a nation....They form always a state within a state, because they are never treated as children of the country....They possess no landed property; though commerce, which generally renders men citizens of the world, procures them portable riches, that afford them a small consolation of the opprobrium thrown upon them, and the load of oppressive laws under which they groan. You require that they should love their country?—first give them one.

And Count Stanislaus de Clermont-Tonnerre, a deputy to the National Assembly, argued during the debates on the eligibility of Jews for citizenship:

The Jews should be denied everything as a nation, but granted everything as individuals. They must be citizens...there cannot be one nation within another nation...It is intolerable that the Jews should become a separate political formation or class in the country. Every one of them must individually become a citizen; if they do not want this, they must inform us and we shall be compelled to expel them.

But notice the assumption at the heart of these statements: namely, legal emancipation required some degree of social and cultural assimilation on the part of the Jews, and only then would social integration follow (the terms used in France and Germany were ‘civil betterment’; ‘regeneration’). In other words, the Jews were on probation.

The framers of the French Revolution were getting to the heart of what would become the central question in the 19th and 20th centuries: are Jews members of a nation (the Jewish nation) or are they simply a religion (Jewish citizens of the French nation)?

For the revolutionaries, ‘a nation within a nation’ could not be tolerated. Rather than identifying with and conducting one’s life according to a particular religious tradition, modern man had to elevate himself and become ‘the citizen’. As Rousseau wrote: ‘We do not... begin to become men [but only after having] been citizens’. Not only were the revolutionaries heirs to Enlightenment ideas, but they also remembered the irrationality of religious conflicts in the bloody

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Thirty Years War of the 17th century that was fought on French and German soil. Religious affiliations, they concluded, are particularly threatening because they can challenge political authority.

These issues confronted the revolutionaries as they debated the Jews' 'readiness' to enter the state. The Jews also pondered their own

identity, both as individuals and as a collective. Is it possible to draw a dividing line between the public and private spheres? Could Jews enter the public sphere without converting? Could they be Jews in the home and Frenchmen in the street—simply be French citizens of the Jewish faith?

These were the burning questions in the debate regarding Jewish emancipation. By 1792, however, the National Assembly decided to emancipate the Jews and they were explicitly recognised as full citizens. Why? As mentioned, the power of the idea of emancipation was regarded in moral terms. The strength of the revolution's principles logically led to the conclusion that all men—no matter what their background—were eligible to be emancipated.

How does Napoleon fit in this debate?

Napoleon

As is well known, the French Revolution became increasingly radical and violent following the execution of King Louis XVI. The period 1793–1794 is known as the Reign of Terror. At the same time, the French Army, led by Napoleon Bonaparte, was victorious wherever it fought.

Napoleon's relationship to revolutionary values was complicated. He continued the revolution's war against monarchies, he abolished the Inquisition, and emancipated the Jews of Italy, Belgium, the Netherlands,

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and some German lands. Where physical ghettos existed (e.g., Venice, Verona, Padua, Ancona), he opened the ghetto gates. He granted near universal suffrage to males.

Napoleon led his army to the Middle East and liberated both Jews and Copts (a Christian Middle Eastern and North African religious group). Jews welcomed him with the Hebrew phrase *helek tov* (a Hebrew pun on his name: ‘good portion’ or bona-parte). In those moments, Napoleon must have thought of himself as a latter-day Alexander the Great who was also greeted as a liberator by the Jewish community of Egypt.

But, Napoleon retreated from some of the revolution’s most basic principles: he restored property qualifications; reinstated slavery in the French colonies; abolished freedom of press; re-established Roman Catholicism as the state religion; and he crowned himself Emperor in 1804.

Napoleon also backtracked on the revolution’s policy towards the Jews. He kept the ‘Jewish Question’ alive.

The Assembly of Jewish Notables and the Grand Sanhedrin

After the battle of Austerlitz, Napoleon stopped at Strasbourg on 22 and 23 January 1806. There, the prefect of the city and the representatives of the Alsatian peasants complained to him about Jewish usury (money-lending), and petitioned for his protection. Consequently, Napoleon asked his administration to study whether it was possible to declare all previous mortgages taken by Jews to be null and void, and also to possibly deprive the Jews of their citizenship.

Napoleon reverted to the ‘Conditionalist’ position of pre-revolutionary France. In order to get to the heart of the matter, he convened an ‘Assembly of Jewish Notables’, comprising 112 prominent French and Italian Jewish businessmen, financiers, rabbis and scholars.

The Assembly of Jewish Notables met in March 1806 and were asked 12 questions: three on marriage laws (personal identity); three on relations

of Jews to Frenchmen and to France; two about the rights and jurisdiction of rabbis; one about work that Jewish law forbids; and two about usury.

The Jews stood in a precarious position: if they pledged absolute allegiance to French civil law, they would betray Jewish law and tradition. But if they gave priority to Jewish law, they would be accused of betraying the state. After debating the issue, they found a way to give priority to French civil law without abandoning Jewish law. The 12 questions and their answers are beyond the scope of this paper, but I will give one example.

The Notables were asked: ‘May a Jewish woman marry a Christian, or a Christian woman a Jew?’ The Notables replied that biblical law did not explicitly forbid intermarriage with Christians. But rabbinic law (that is, the post-biblical law and tradition that guided Jews for 2,000 years) does not support such unions. They are, however, valid civilly, and could be dissolved civilly without a religious divorce.

Napoleon appeared satisfied with the answers. But to give a religious sanction to the decision of the Assembly of Notables, he convened a Sanhedrin in February 1807—the name of the court that existed in antiquity before the destruction of the Second Temple in Jerusalem in the first century.

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The plan to re-establish the ancient legislative body caused a sensation among European Jews. But in fact, the Sanhedrin did not really represent world Jewry or even address the status of world Jewry. In other parts of Europe, Jews did not want to participate in the Sanhedrin. Prussian Jews were fearful of their reactionary government, Austrian Jews also

felt vulnerable, and Russian and Polish Jews were under the thumb of the Tsar. In historical perspective, the Great Sanhedrin was an isolated phenomenon.

Once Napoleon was satisfied with the answers, he promulgated two edicts. The first was the ‘Organic Regulation of the Mosaic Religion’ that recognised Judaism as an official religion of France, and established a state-supervised consistorial system to regulate religious life in the synagogues and Jewish schools. Each French province with a minimum of 2,000 Jews would have a consistory, and provincial consistories answered to the Central Consistory in Paris. This act put Judaism on an equal footing with Catholics and Protestants (except that salaries of Christian clerics were paid by the state, but rabbis were excluded.)

The second edict, however, was problematic. Known as the ‘Infamous Decree’, it voided or reduced Christian debts due to Jewish creditors. This edict hit the Jewish community hard. The result was economic disaster because Jews did not have enough revenue to run their communities (pay their rabbis, teachers, butchers, etc.).

In addition, Jews were forbidden from substituting recruits for military service—a practice that was allowed for Catholics and Protestants. And they were forced to take an Oath of Allegiance to the state—something that was not asked of other Frenchmen.

Napoleon’s downfall and abdication after his defeat in Russia and the Battle of Leipzig (1813) was followed by a political reaction throughout Europe. The Congress of Vienna (1814–15) re-drew the European political map and turned back the gains Jews had made under Napoleon. In the Papal States, for example, the ghetto was reinstated, and again Jews had to wear the distinctive yellow badge. The Austrians in northern Italy excluded the Jews of Lombardy and Venetia from owning real estate.

In France itself, however, the Jews kept their legal emancipation. But Napoleon’s restoration of the church re-enforced the attitude that Judaism was a lower form of religion and morality, superseded by Christianity. Conversion was one alternative that many Jews chose. But for those

Jews who remained in the Jewish fold, legal freedom did not translate into social acceptance.

The Infamous Decrees were dropped in 1818, and in 1846, the Jews were no longer required to take the oath of loyalty. In 1905, France passed a law separating church and state. By the 20th century, French Jews were accepted and integrated more than almost any country in the world, except the United States.

The process of emancipation differed in each European country. In France and Holland, Jews were emancipated in 1791 on ideological grounds; in England by an act of Parliament in 1858; in Austria-Hungary in 1867 after a series of liberal revolutions; in Germany universally in 1871.

The majority of Jews in the world, however, were not affected by these events. Eighty per cent remained in Tsarist Russia, which included Russia, the Ukraine, Poland and Lithuania. They were not emancipated until the Russian Revolution in 1917.

By 1900, most Jews outside the Russian Empire lived in the major European cities, and were able to advance in most professions. They gained political and economic freedom, but remained socially apart. And the presence and pressure from small, but aggressive, anti-Semitic groups grew in the late 19th and early 20th century.

Current Implications of the French Revolution

For most of European history, the Jews were the only minority of any significance. After the Holocaust—the genocide that destroyed two-thirds of European Jews between 1939–1945—Jews no longer have a large presence in Europe. Other groups have taken that role, most recently Muslims.

Europe continues to have an ambiguous attitude towards minorities. In Europe, ‘belongingness’ is identified with ethno-religious and ethno-linguistic criteria	Europe continues to have an ambiguous attitude towards minorities. In Europe, ‘belongingness’
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as the criteria for national identity. All too often, a person is labelled ‘foreign’ when dress, dietary customs, religious beliefs and observance differ from the majority. This attitude is a barrier for particular individuals or groups to be regarded as full and equal members of a nation.

The French *burqa* laws illustrate the difficulty. In 2004, France passed a law that the hijab could not be worn in public schools. In 2010, it passed a law against wearing the *burqa* in public places. The *burqa* law was justified by the principle that the French State must protect girls who might have been pressured by family or their community to wear it against their will. The 2004 ban declared that it was guarding the ‘dignity’ of the girls and women. In addition, difference is a threat to the ‘public order’ as articulated in Article 10 of the *Declaration of the Rights of Man*. In 2008, the Council of State refused to grant French nationality to a woman wearing a *niqab* on the basis of ‘absence of assimilation’. This attitude—that the State may socially engineer society—is a legacy of the French Revolution.²

By contrast, the political tradition of the United States emphasises the integrity and diversity of religious life as a public good. The founding father James Madison believed that allowing a variety of religious sects would guard against the tyranny of the majority because no majority could emerge that could ‘oppress and persecute the rest’. More recently, the United States Supreme Court affirmed in a 1972 case that: ‘A way of life that is odd or even erratic but interferes with no rights or interest of others is not to be condemned because it is different.’ The public visibility of religious affiliation is allowed and protected by law. But since 9/11 and more recently since the 2016 election, these values are being challenged in the United States.

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The 'Jewish Question' has not ended, even when the minority is not Jewish.

Notes

¹ The following terms are taken from Alyssa Goldstein Sepinwall, 'Napoleon, French Jews, and the Idea of Regeneration' in *CCAR Journal* (Winter 2007).

² For excellent discussions of the freedom of religious conscience, see the article by Ioanna Tourkochoriti, 'The Burka Ban: Divergent Approaches to Freedom of Religion in France and in the U.S.A.' in the *William & Mary Bill of Rights Journal* (2012) and Martha Nussbaum's book, *The New Religious Intolerance: Overcoming the Politics of Fear in an Age of Anxiety* (2013).

ABOUT THE AUTHOR

Michael Nutkiewicz earned his BA and MA in Philosophy, and his Ph.D. in History from UCLA with a specialisation in Early Modern European Intellectual History, Jewish History, and the History of Science. In addition to his university teaching in religious studies, history, and philosophy departments, he has held executive leadership positions in organisations dedicated to social justice education, human rights, and refugee resettlement.

