

Storia della magistratura italiana

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To cite this article: Claudia Storti (2016) Storia della magistratura italiana, *Journal of Modern Italian Studies*, 21:1, 169-171, DOI: [10.1080/1354571X.2016.1112081](https://doi.org/10.1080/1354571X.2016.1112081)

To link to this article: <http://dx.doi.org/10.1080/1354571X.2016.1112081>



Published online: 08 Apr 2016.



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their retreat, the Germans were much bloodier than the Italians (moreover, Italians are found in far fewer Soviet inquiries into war crimes than Germans, of which the numbers are much higher). Finally this last chapter also examines the repatriation of Alpine soldiers to Italy at the end of the war and the subsequent investigations. The book ends, however, with the negative story of the official Musitelli, one of the few officers distinguished for his inhumane regime in the area of Sergeevka, a story which unfortunately leaves the reader with a bitter taste right at the end of the book.

Scotoni's study has the great merit of showing the more humane and proper face of the Alpine soldiers with respect to their allies during the Soviet occupation, providing a clear rehabilitation of the ARMIR's image regarding the events that occurred in the Upper Don between 1941 and 1943. The sharing of Russian documents, published and unpublished, with the Italian public certainly contributes to the reconstruction of a dark chapter in our national history. In the future we hope for a larger conversation in the Italian and Anglo historiography, and for the conversation to continue in Russia.

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<http://dx.doi.org/10.1080/1354571X.2016.1112079>

Storia della magistratura italiana, by Antonella Meniconi, Il Mulino, Bologna, 2012 365 pp., €26, soft cover, ISBN 978-88-15-24413-0

Antonella Meniconi's ample and well-documented research has its place in the mainstream of a large, learned (and in some cases classic) literature on the history and legal history of Italy's judiciary. This is a body of scholarship that dates from the 1960s with the enforcement of the principles of the separation of powers and the judiciary's independence that was established by the 1948 republican democratic constitution and triggered a fierce fight involving opposed political parties and well-identified areas of Italian *magistrati* (both judges and public prosecutors) of the 'Ordinary Judiciary', doctrine and public opinion. Meniconi deals with the very complex topic of the judiciary in a rigorously diachronic perspective stretching from 1861 to the present day, following the classical division of liberal, Fascist and republican periods. That is to say, a history of Italy through the history of the Italian judiciary.

Even if in the background of the study, as the author underlines, the weft of the bills and reforms enacted allows a reading and interpretation of the different steps that, slowly and discontinuously, constructed the national judiciary system and shaped the internal history of the Italian corps of judges, as both individuals

and associations of *magistrati*. Meniconi's close analysis of the reforms delves into the reasons for the measures either adopted, or unsuccessfully attempted, whether the reforms were enacted (as in 1865, 1907–08, 1923, 1941, 2005, 2007), planned but unenforced, or just partial (like the numerous and unsteady rules concerning appointments, promotion and disciplinary procedures, removals and expulsions, the latter, in particular, at the beginning of the Fascist era and after the post-war liberation in the 1970s, with regard to penal and labour judges and public prosecutors). For example, in 1919, the reform proposed by Ludovico Mortara straddled the crucial alternative between an elective (or semi-elective) judiciary system and a bureaucratic one, which indeed lasted until the end of the 1960s, when the 1948 constitutional provisions came into effect.

Against the background of the contrasting opinions about the functions and role of judicial power as concerns, on the one hand, political demands and requirements and, on the other, society's claims for justice, Meniconi's study touches on a large spectrum of specific topics and questions about the general interests and values pursued by the law in the course of various legislatures. These seek to either increase, stress or, on the contrary, reduce the political control over magistrates, judges and prosecutors, and either allow or, on the contrary, attempt to loosen the links between magistrates and judges (at any level) and local political and/or economical élites in order to foster judiciary independence and impartiality of judgement.

The 1848 Statute of Carlo Alberto, which was to become the Statute of the Kingdom of Italy and remain in force up until the republican constitution of 1948, is the starting point for the study. By interpreting its provisions, the government, through the Minister of Justice, held itself accountable for the judiciary, directing and supervising its activity. After the unification, the building of an Italian corps of ordinary judges was characterized by a series of differing philosophies about technical legal instruments (which had already been experienced by both the previous Italian states and contemporary European states), and how they could be utilized in order to realize specific political purposes: either unity or separation of careers between public prosecutors or judges; a guarantee of independence and irremovability, at times restricted to judges at any level and order, at times for public prosecutors as well; protection of careers despite interference from the Minister of Justice or the judiciary's highest ranks; institution of the judiciary's own administrative bodies either controlled by the executive or enjoying, to a greater or lesser extent, autonomy; and reform of judicial districts. Each tool of the judiciary, in specific contexts and times, had a varied efficacy, according not only to how they worked together, but also, and above all in penal justice, to how they upheld the principle of mandatory prosecution (as was demanded by the 1948 Italian constitution) and – as recent more legal-centred research outlines – according to the application of the controversial adversarial *versus* inquisitorial method in procedures.

The sharp distinction in the status and role of *magistrati* between higher and lower ranks is constant in the history of the Italian judiciary. High-level judges and public prosecutors were involved in political and ministerial functions and in law-making processes, especially in the liberal and Fascist periods, which, it must be emphasized, show strong elements of continuity not only from this point of view, but also in the extent to which the Court of Cassation enjoyed a position of dominance over the judiciary and judicial procedure.

One of the strongest points of the volume is that the punctual reconstruction of rules, parliamentary debates, grey legislation and solemn speeches for the opening of the judicial years are continuously verified in their practical implications and effectiveness. In addition, and more importantly, the change in the social and cultural backgrounds of the *magistrati*, as well as the development of individual careers, are examined in detail through very extensive research into the judicial files located at the State and Consiglio superiore della magistratura (CSM) archives in Rome and in Pietro Saraceno's library at New York University. Meniconi reconstructs the biographies of the highest judges and prosecutors who had key roles in the judiciary and in public and government institutions, as well as of those who had, on the contrary, the misfortune to be disadvantaged in their career on political grounds.

The thorough analysis of both higher and lower courts and judges' attitudes and their personal stories shows some utterly diversified pictures of the Italian judiciary, at times promoting a 'steady and uniform case law' to face the new legal questions born of social changes, and at times, on the contrary, bringing their judgements into line with society's opinions about the rules and adapting case law to the continuously mutable needs of society.

It is only in the 1960s and 1970s – with the actual application of the 1958 reform of the CSM, changes in the judges' social background and in the rules over admission and promotion contests, and with women's access to the judiciary – that a more effective enforcement of the constitutional principle of judicial independence is achieved, thus freeing judges and public prosecutors to exercise their judicial powers, as jurists rather than as bureaucrats.

But, as Meniconi underlines in her conclusions, some fundamental issues of the history of the judiciary are still under debate and a subject for continued discussion. So, we can look forward to another chapter of the history of the Italian judiciary in a few years.

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<http://dx.doi.org/10.1080/1354571X.2016.1112081>

Italian women writers, 1800–2000. Boundaries, borders, and transgression, edited by Patrizia Sambuco, Madison, Fairleigh Dickinson University Press, 2015, 197 pp., \$55.20 (hard cover), ISBN 978-1-61147-790-0

The volume *Italian Women Writers, 1800–2000. Boundaries, Borders, and Transgression* edited by Patrizia Sambuco explores the concepts of space, territory, marginality, boundaries, and identity as pertinent to the analysis of female literary production from the 1800s until today. The anthology, which opens with an excellent introduction contextualizing the essays in the critical and theoretical reflections of Foucault, Benjamin, Lefebvre, Anzaldúa, Braidotti, Deleuze, and Guattari, is made up of twelve essays divided thematically into three sections.