

The Fascists and the Jews of Italy

Mussolini's Race Laws, 1938–1943

From 1938 until 1943 – before the German occupation and accompanying Holocaust – Fascist Italy drafted and enforced a comprehensive set of antisemitic laws. Notwithstanding later rationalizations, the laws were enforced and administered with a high degree of severity and resulted in serious, and in some cases permanent, damage to the Italian Jewish community. Written from the perspective of an American legal scholar, this book constitutes the first truly comprehensive survey of the Race Laws in the English language. Based on an exhaustive review of Italian legal, administrative, and judicial sources, together with archives of the Italian Jewish community, Professor Michael A. Livingston demonstrates the zeal but also the occasional ambivalence and contradictions with which the Race Laws were applied and assimilated by the Italian legal order and ordinary citizens. Although frequently depressing, the history of the Race Laws also involves numerous examples of personal courage and idealism and provides a useful and timely study of what happens when otherwise decent people are confronted with an evil and unjust legal order.

Michael A. Livingston is Professor of Law at the Rutgers-Camden School of Law. Professor Livingston has published extensively on tax law, comparative law, and other subjects, including articles in the *Yale Law Journal*, the *Cornell Law Review*, the *Texas Law Review*, and the *American Journal of Comparative Law*. He has taught at Tel Aviv University, Bar Ilan University, the University of Graz, and Cornell University, and he has lectured at various universities in Italy, Israel, and the United States. Professor Livingston's course on Law and the Holocaust, which has been taught in three different countries, is one of the few of its kind in American law schools.

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MICHAEL A. LIVINGSTON
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Preface

This book is an example of how easily an activity undertaken for pleasure – what the Italians aptly call *divertimento* – can become central to one’s professional existence. On a summer night in 2001, unable to get a train reservation, I rented a car in Florence and drove to Milan with a three-hour stopover in Ferrara, a city I knew from *The Garden of the Finzi-Continis* (and very briefly my honeymoon) but had no further experience with. I walked along the ramparts leading to the Jewish cemetery and resolved that, one way or another, I would investigate the experience of the Italian Jews during the Fascist era on a systematic level. A few months later the Holocaust Museum in Washington announced a fellowship competition, listing Italy as one of the countries whose archives were being microfilmed but that had not yet been studied. Ten years later, an American tax scholar finds himself publishing a book on the Italian Race Laws, and much of his other teaching and research revolving around themes emerging from the project.

The book is also a good example of how different it is to study a subject in detail and to approach it in a casual manner. Most of us grow up with a certain set of assumptions about the Nazi and Fascist eras in general and the Holocaust in particular. The Germans were bad, the Italians were good, the French were somewhere in between. The Race Laws were at best half-hearted and at worst comical in nature, the real trouble starting only when the Germans arrived. It is traumatic and at times disillusioning to discover how incomplete, and sometimes outright false, these generalizations are. Yet there is a deeper love for a country, like a person, that comes when one accepts its limitations and begins to see it as it is rather than as one would like it to be. If I can no longer accept the idea of “the good Italian” (*italiani brava gente*) quite as readily as I once did – and if I have to force a smile when people say that “there is no antisemitism in Italy” – I can also appreciate much better the survival of

the Italian Jewish community, and the ability of many if not all Italians to learn from the country's mistakes and try to build a better world.

A project of this nature requires assistance from more people than can possibly be named. A first thank you must go my Dean, Rayman Solomon, for allowing me to spend the better part of a decade on a project unrelated to my previous research interests and of less than obvious practical import. My research assistants/associates at Rutgers, including Charlotte Levins, Zoha Barkeshli, Rebecca Mamone, Matan Shmuel, Marissa Sharples, Allison Pavero, Nicholas Dibble, Shefali Jaiswal, Erica DiMarco, and others, and those in Italy, including Martina Salvante, Laura Brazzo, and Alessandra Borgese, likewise deserve special praise. Michele Sarfatti and Liliana Picciotto at the Center for Contemporary Jewish Documentation (CDEC) in Milan were an indispensable source of advice and encouragement from my first trip a decade ago until today. Avvocato Guido Fubini in Turin, until his death in 2010, provided generously of his time and extraordinary energy, all the while providing a model of humanistic Judaism that seeks to make the world a better place without showing bitterness even toward those who deserve it. The staff of the Archivio Centrale dello Stato in Rome, together with the regional archives in Ferrara and Turin and the various Jewish collections (UCEI and ASCER) in the capital, were unfailingly helpful and polite if at times not quite understanding why an American law professor would be interested in their materials. Victoria De Grazia, Jonathan Steinberg, Fabio Levi, Richard Weisberg, and Assaf Likhovski were kind enough to read all or part the manuscript, in some cases more than once, and provide invaluable comments. Presentations to the faculties of Rutgers-Camden, Tel Aviv University, and the Hebrew University in Jerusalem allowed me to try out new ideas and see where my existing ones didn't work. Special thanks to Cesare Belluzzi for reviewing the draft with a special eye toward the inevitable errors in Italian legal terminology and usage, and to Marco Greggi, Sara Gattazzo, and Anna Zoppellaro, also at the University of Ferrara, for their timely support. Benton Arnovitz, Wendy Lower, and the staff of the United States Holocaust Memorial Museum provided technical and moral encouragement at various stages of the project. Eric Crahan and Lewis Bateman at Cambridge were invariably supportive editors, while Debbie Carr, Kaeko Jackson, and Debi Leak provided invaluable secretarial assistance, as did Anne Dalesandro, Gloria Chao, and the staff of the Rutgers law library.

Finally, I would like to thank my wife, Anne Weiss, and my children, Ben and Daniel, for their help and encouragement and simply for putting up with me during the decade or so that it took to complete this project. It is not easy to live with a husband (father) who fills boxes with obscure documents, or who interrupts conversations to see how a word he just heard would best be translated into Italian. It is my hope that this book will justify their as well as my investment, and perhaps teach us all a lesson about tolerance and what happens when it disappears.