Introduction

Beyond the Two Caesars

Even a passing glance at his lengthy *curriculum vitae* is enough to draw the conclusion that Ugo Conti (1864–1942) was a towering figure in the legal history of Liberal and Fascist Italy. A graduate of Italy's premier law school, the University of Bologna, Conti had an exceptionally distinguished academic career, holding chairs at Cagliari, Rome, Messina, Modena, Siena, and Pisa.[1] His numerous monographs and articles cemented his status as one of Liberal Italy's foremost experts on a range of legal issues – juvenile delinquency, habitual crime, criminal responsibility, prison reform, penal procedure, and comparative penal law.[2] They also established him as a prominent and influential voice for criminal-law reform in the decade before the Great War – the high season of penal reformism in the prewar Liberal era. Conti continued to shape contemporary Italian penal-reform initiatives well into the postwar period. In the late 1920s, he penned the Pisa law faculty's official critiques of the Fascist penal and procedural draft codes; and as of 1932,

[1] At the University of Bologna, Conti studied under the direction of Luigi Lucchini, one of the most important penal jurists in the history of Liberal Italy.

[2] Among his major prewar works, see Ugo Conti, *La recidiva e il progetto Zanardelli* (Bologna: Zanichelli, 1889); Conti, *Gli articoli 49 a 60 del codice penale italiano: studio teorico-pratico* (Milan: Vallardi, 1892); Conti, *Il problema dei riformatorj* (Milan: Tipografia del Riformatorio Patronato, 1894); Conti, *Diritto penale e i suoi limiti naturali: le ultime sistemazioni proposte* (Cagliari: G. Dessì, 1911); Conti, *Diritto penale e i suoi limiti naturali: concetto del "pericolosità criminale"* (Cagliari: G. Dessì, 1912); Conti, *Diritto penale e i suoi limiti naturali: giurisdizione e amministrazione* (Cagliari: Società Tipografica Sarda, 1913); and Conti, *Pena e complemento di pena* (Turin: UTET, 1914). Above all, see Conti's magnum opus, "La pena e il sistema penale del codice italiano," *EDPI*, ed. Enrico Pessina (Milan: Società Editrice Libraria, 1911), 4:1–970.

he edited two multi-volume treatises on Fascist criminal statutes of 1930.[3] In addition to his prolific and influential writing, Conti served on numerous national commissions for both the Liberal and Fascist governments and assumed a high-profile role in child-welfare organizations and conferences. He was also prominent in the international penal-reform movement. For more than a quarter century, he was a member of Italy's delegation to the International Prison Congress (IPC), the largest, oldest, and most distinguished penal-reform body worldwide; after the First World War, he also joined a pair of League of Nations committees on prisons and the protection of women and children. So prominent and respected was he that in 1927, the government of Colombia invited him to draft its country's criminal code.[4]

What makes Conti still more important is the era in which he lived. The period from national unification in 1861 to the Fascist dictatorship (1922–1943) represents a critical and transformative one in modern Italian legal history. Soon after the Kingdom of Italy was born, an Italian (and liberal) juridical culture emerged from the regional and variegated legal orders of the several autocracies that had previously ruled the peninsula and islands. By the Great War, a complex body of penal laws, institutions, and reform initiatives had taken shape, including Italy's first national criminal code in 1889; two codes of penal procedure (1865 and 1913); national prison regulations in 1891; two sets of public-security (or police) statutes (1865 and 1889); and numerous special acts, institutions, and proposals that targeted violent, habitual, juvenile, alcoholic, insane, and still other socially "dangerous" offenders. After Mussolini's March on Rome in 1922, Italian criminal justice underwent yet another transformation. In 1930, the dictatorship decreed the so-called Rocco Code, the world's first "fascist" penal law. It also attempted to remake penal justice more generally by instituting a new code of penal procedure (1930), rewritten public-security and prison regulations (both in 1931), and a

[3] See Ugo Conti, *Sul progetto preliminare di un nuovo codice penale* (Bern: Stæmpfli & Cie, 1928); and Conti, *Sul progetto preliminare di un nuovo codice di procedura penale italiano* (Bern: Stæmpfli & Cie, 1930); Conti, ed., *Il codice penale: illustrato articolo per articolo*, 3 vols. (Milan: Società Editrice Libraria, 1934–36); and Conti, ed., *Il codice di procedura penale: illustrato articolo per articolo*, 3 vols. (Milan: Società Editrice Libraria, 1937).

[4] See Guglielmo Sabatini, "Ugo Conti," in *Scritti in onore del prof. Ugo Conti per il trentesimo anno di ordinariato, 1902–1932* (Città del Castello: Unione Arti Grafiche, 1932), 15–22.

juvenile-justice system (1934). In short, Conti's long career spanned a significant era in modern Italian legal history – and one Conti himself helped to define and to shape.

Yet, in existing scholarship on Italian legal history, the prominence, influence, and historical significance of Ugo Conti is consistently and conspicuously absent. The reasons for this omission become clear once we consider how Conti's views relate to scholarly interpretations of legal culture and penal reform. Legal historians have traditionally characterized criminal-law reform in Liberal and Fascist Italy as an unceasing, bitter, and increasingly radicalized struggle between two rival penal schools that began in the last quarter of the nineteenth century. On one side was the traditionally dominant "classical school" of jurisprudence, which espoused the liberal-Enlightenment penology that Cesare Beccaria had articulated in his *Of Crimes and Punishments* (1764): moral fault as the basis of culpability; retribution, repression, and proportionality as the bases of punishment; the crime not the criminal as the object of that punishment; and the safeguarding of individual liberty as a primary function of penal law, among other things.[5] On the other side was the upstart "school" of positivist criminology founded by Veronese surgeon Cesare Lombroso upon his publication of *L'uomo delinquente* (*Criminal Man*) in 1876.[6] According to this account, the juridical supremacy of the "classical school" was challenged by positivists' new "scientific" theories on biological causes of crime; on social dangerousness as the basis for legal responsibility; on prevention, individualization, and indeterminacy as the aims of punishment; on the criminal himself as the object of punishment; and on "social defense" as the purpose of penal law. Over time, this challenge was allegedly successful: not only did positivists come to dominate the Liberal legal order, scholars contend, but they ultimately triumphed

[5] Cesare Beccaria, *An Essay on Crimes and Punishments*, trans. and ed. Adolph Caso (Boston: International Pocket Library, 1983).

[6] Cesare Lombroso, *L'uomo delinquente studiato in rapporto all'antropologia, alla medicina legale ed alle discipline carcerarie* (Milan: Hoepli, 1876). For a recent reprint in Italian, see Lombroso, *L'uomo delinquente studiato in rapporto all'antropologia, alla medicina legale ed alle discipline carcerarie*, ed. Lucia Rodler (Bologna: Il Mulino, 2011). The significantly expanded fifth and final edition of *Criminal Man* has also been recently reprinted. See Lombroso, *L'uomo delinquente: quinta edizione, 1897*, ed. Armando Torno (Milan: Bompiani, 2013). For an overview of the five editions of Lombroso's magnum opus between 1876 and 1897, see Lombroso, *Criminal Man*, trans. and with a new introduction by Mary Gibson and Nicole Hahn Rafter (Durham: Duke University Press, 2006).

over the classical school by fundamentally shaping the Fascist (or Rocco) penal code of 1930.[7]

There is no place for Ugo Conti in this narrative. Rather than adhering to one of these sharply polarized penal "schools," Conti straddled them. His "traditional" views of guilt and punishment appeared to fit with the so-called classical school. On the other hand, his concepts of social defense and criminal dangerousness, as well as his signature idea of *complementi di pena* (penal complements, or indefinite "security measures" against dangerous common offenders), seemed to embrace the penology of the rival positivist school.[8] In the context of the conventional narrative, then, Conti represents an impossible hybrid of opposing penal philosophies, and his influence a clear and rare exception to the rule of positivist ascendancy.

The case of Ugo Conti illustrates both why this book was written and what it seeks to accomplish. The fact that a man of such stature, authority, and influence has been relegated to a historiographical no man's land raises significant questions about the adequacy and accuracy of current narratives of this pivotal period in Italian criminal-law reform. Conti's

[7] This conventional narrative began in the early 1880s with positivist lawyer-criminologist Enrico Ferri, who invented the idea of a "classical school" of jurisprudence as a straw man against which he could position the so-called positivist school (*scuola positiva*). During the Liberal and Fascist eras, many legal scholars – positivist or otherwise – adopted the general contours of Ferri's framework when composing their own histories of Italian penal law. For the Liberal period, see, for example, Silvio Longhi, *Repressione e prevenzione nel diritto penale attuale* (Milan: Società Editrice Libraria, 1911). For the Fascist *ventennio*, see, among many others, Ugo Spirito, *Storia del diritto penale italiano: da Beccaria ai nostri giorni*, 3rd ed. (Florence: G. C. Sansoni, 1974). This edition follows up those previously published in 1925 and 1932. After the Second World War, the two-schools narrative continued to dominate legal commentaries, which have generally seen the 1930 Rocco Code as a "compromise" between, or a "synthesis" of, classical and positivist penal thought. This interpretation has been particularly evident in the scores of penal-law manuals and treatises published over the last several decades. Among countless examples, see Bruno Cassinelli, *Prospetto storico del diritto penale* (Milan: dall'Oglio, 1954), 147–60. Not limited to such works, however, the traditional account of Liberal and Fascist penal law has generally been furthered by historians of the law and criminology. Among recent examples, see Carlo Federico Grosso, "Le grande correnti del pensiero penalistico italiano tra Ottocento e Novecento," in *Storia d'Italia*, Annali 12, *La criminalità*, ed. Luciano Violante (Turin: Einaudi, 1997), 7–34; Luigi Ferrajoli, "Scienze giuridiche," in *La cultura italiana del Novecento*, ed. Corrado Stajano (Rome: Laterza, 1996), 559–97; Guido Neppi Modona and Marco Pelissero, "La politica criminale durante il fascismo," in Violante, *Storia d'Italia*, Annali 12, *La criminalità*, 759–847, especially 813; Sergio Vinciguerra, *Diritto penale italiano*, Vol. 1, 2nd ed. (Padua: CEDAM, 2009), 243–75; Mary Gibson, *Born to Crime: Cesare Lombroso and the Origins of Biological Criminology* (Westport, CT: Praeger, 2002); and Tiago Pires Marques, *Crime and the Fascist State, 1850–1940* (London: Pickering & Chatto, 2013).

[8] Ugo Conti, *I complementi di pena* (Milan: Vallardi, 1910).

very existence implies that, at least to some degree, penal reform developed beyond the two Caesars of Cesare Beccaria and Cesare Lombroso and their respective "schools." Just how significant those developments were is what this book will go on to reveal.

The interpretation it puts forward is the result of a broad and ambitious analysis of the evolution of criminal-law reform and legal culture from the Liberal to the Fascist era. That investigation has been guided by four central questions: (1) What precipitated the sustained and wide-ranging interest in penal-law reform from Italian unification to the Great War?; (2) What was the nature of Liberal-era reformism, and what can it tell us about the ideological makeup and dynamics of Italian legal culture throughout the prewar period?; (3) To what extent were these penal-reform strategies specific to Italy?; and (4) Why did these Liberal-era reform initiatives largely endure after Mussolini's March on Rome in 1922?

In both its scope and its approach, this book breaks new and important ground. It represents, for one, the most comprehensive account to date – and the first in a monographic study – of Liberal and Fascist penal-law reform and legal culture. Scholarly works on Liberal-era criminal-law reform have before now focused overwhelmingly on positivist criminology and its (pseudo-)scientific and extreme theories of inborn criminality and social defense. Accordingly, they begin their investigations only with the publication of Cesare Lombroso's *Criminal Man* in 1876, the founding text of the positivist criminological movement; and they pay only meager attention to the "classical" jurists who did not subscribe to Lombrosian doctrine. By assessing Italian legal debates about crime and criminality over a longer period, and by examining a broader range of jurists, this study offers a richer and fuller understanding of the issues that absorbed Italian penal reformers for decades. It also redresses a significant historiographical imbalance by centering extensively on common rather than political crime. To date, legal historians of Italy (and of Fascist Italy in particular) have focused their attention primarily on political crime – despite the fact that from unification to fascism, Italian penalists were concerned first and foremost with common crime.[9] Finally, this

[9] On political crime in Liberal Italy, see, in addition to those cited in Chapter 3, Mario Sbriccoli, "Dissenso politico e diritto penale in Italia tra otto e novecento," *QF* 2 (1973): 607–702; Ferdinando Cordova, *Democrazia e repressione nell'Italia di fine secolo* (Rome: Bulzoni, 1983); Floriana Colao, *Il delitto politico tra Ottocento e Novecento: da delitto fittizio a nemico dello Stato* (Milan: Giuffrè, 1986); and Patrick Anthony Cavaliere, *Il diritto penale politico in Italia dallo Stato liberale allo Stato totalitario: Storia delle*

book breaks from the conventional approach of examining Italian penal-law reform in isolation. By placing these developments instead in a wider transnational context, it adds a long-overdue Italian dimension to the vast and growing literature on the modernization of criminal law worldwide in the nineteenth and early-twentieth centuries.

In answer to the central questions posed here, this book puts forth four interrelated arguments. First and foremost, it argues that the engine driving criminal-law reform was the causal link penal jurists identified between rising rates of crime and the debilitating weakness of the Italian state. From the birth of the Kingdom of Italy and over the next half-century, legal experts grew increasingly concerned with the serious crime problem they saw reflected in burgeoning statistical data and other legal research: common crime was surging and, in particular, violent and other "dangerous" forms of common crime were on the increase. The consequences of this rampant lawlessness, they concluded, were clear. Italy's crime problem, they maintained, was the primary reason for the country's chronic instability and for its failure to emerge as a global power. Jurists laid the blame for this perceived crisis at the feet of a criminal-justice system they saw as fundamentally broken. In their eyes, it was only by reforming that system that Italy could hope to achieve both national cohesion and international preeminence. It was in this context and for these reasons that Liberal penal jurists both envisioned and asserted themselves as indispensable architects of the Italian nation and became a broad, activist, and influential interest group in national politics.

In response to the second question on the nature of Liberal-era penal reform, this book brings to light for the first time the critical importance of a legal philosophy that I call "moderate social defense." A varied and dynamic mix of ideas about how to repress and prevent "dangerous" common crime, this penal-reform ideology reigned supreme throughout the period under investigation. My study illuminates moderate social defense in part by tracing the origins and development of its core principles to the early-nineteenth century, both in Napoleonic and Restoration-era criminal law and in the writings of leading penalists in pre-unitary Italy. It also illustrates the sustained and widespread support those principles received from unification to fascism and across what was a broad and ideologically diverse legal establishment. Indeed, this book argues,

ideologie penalistiche tra istituzioni e interpretazioni (Rome: ARACNE, 2008). Among the few works in English, see Susan A. Ashley, *Making Liberalism Work: The Italian Experience, 1860–1914* (Westport, CT: Praeger, 2003), 107–41.

moderate social defense represented the vast philosophical common ground on which criminal-law experts such as Ugo Conti converged when drawing up penal-reform legislation and consistently underpinned their solutions for fighting crime in Liberal Italy. The moderate social-defense proposals of Liberal jurists carried over to and, in fact, culminated in the Fascist period: the 1930 Rocco penal code represented an attempt to systematize moderate social-defense ideas, most of them pre-Fascist in origin, about how to prevent common crime in a "modern" state. In contrast, it contends, positivist criminologists and their ideologically extreme theories of social defense had a comparatively negligible influence on criminal-law reform in both the Liberal and the Fascist eras. Positivists constituted only a minority faction within the Italian legal order and a movement whose penal-reform views stood well outside the moderate social-defense juridical mainstream.

In addition to exposing the internal cohesion of the Italian legal order across different eras, this study explains how closely Italian penal reform cohered with both foreign legislative precedents and international legal opinion. Throughout, it contends that Italian legal experts' social-defense reform initiatives strongly resembled those either pursued or effected in what allegedly were more moderate countries and otherwise sanctioned by the decades-old international penal-reform movement. During both the Liberal and the Fascist eras, Italian jurists kept a watchful eye on foreign legislative initiatives against recidivists, juvenile delinquents, drunken offenders, and other dangerous common criminals and routinely justified their own schemes by linking them with precedents abroad. Their proposals also followed closely those of the transnational penal-reform movement. And it only stands to reason that they would have: Italian penalists, including Ugo Conti, participated regularly in cross-national legal conferences – especially those of the International Prison Congress, the most important transnational body established in 1872 – and tracked the proceedings of similar organizations, including the International Union of Penal Law (1889–1914), both before and after the Great War. Thus, moderate social-defense reformism was not unique to Italy; rather, it was part of a global penal-reform movement whose common goal was to develop new and increasingly aggressive strategies for combating dangerous common crime.

Finally, this book sheds new light on why Liberal-era proposals remained central to Italian penal-reform debates and initiatives after the Fascist seizure of power in 1922: they did so because political events did not suddenly and radically remake Italian legal culture. Neither

systematically purged nor ideologically "converted" to fascism overnight, the legal order had largely continued on as before. Many of the penal jurists at the center of penal-reform discussions under Mussolini were, like Ugo Conti, essentially the same ones who headed those in the late Liberal era. They brought to Fascist penal-law reform the same moderate social-defense blueprint they had constructed and promoted both before and after the Great War. They also carried with them the same political and professional objectives for overhauling Italy's penal laws and institutions: a modern, dynamic criminal-justice system that would finally propel their country to great-nation status and claim for it the mantle of leadership within the international penal-reform movement. What changed in the transition from liberalism to fascism, then, was the mutual attraction that developed between Mussolini's government and the Italian legal order it inherited. The Fascist leadership saw in penal jurists' moderate social-defense proposals the very basis on which to reform Italian criminal justice. In the eyes of legal experts, Mussolini's government, unlike its Liberal predecessor, appeared ready and willing to commit to their plan for fighting what they had long considered to be the main obstacle to national ascendancy: the common criminal.

Together, these arguments constitute a major reinterpretation of penal-law reform and legal culture in Liberal and Fascist Italy. Perhaps most obvious is the challenge they pose to the general scholarly consensus on the influence of criminological positivism within the Italian legal order, and especially on the penal-reform movement, during this period. This influence was so great, scholars contend, that they have virtually equated Italian legal culture with positivist criminology, and have identified social-defense principles as the brainchild of Cesare Lombroso and other positivist criminological luminaries such as Enrico Ferri and Raffaele Garofalo.[10] The pages that follow make the case that historians

[10] See, for example, Gibson, *Born to Crime*; and Marques, *Crime and the Fascist State*. More generally, the historiography on Lombroso and positivist criminology has exploded over the last quarter-century. See, for example, Paul Knepper and P. J. Ystehede, eds., *The Cesare Lombroso Handbook* (London: Routledge, 2013); Emilia Musumeci, *Cesare Lombroso e le neuroscienze: un parricido mancato. Devianza, libero arbitrio, imputabilità tra antiche chimere ed inediti scenari* (Milan: FrancoAngeli, 2012); Silvano Montaldo, ed., *Cesare Lombroso: gli scienziati e la nuova Italia* (Bologna: Il Mulino, 2011); Pier Luigi Baima Bollone, *Cesare Lombroso e la scoperta dell'uomo delinquente* (Scarmagno: Priuli e Verlucca, 2009); Silvano Montaldo and Paolo Tappero, eds., *Cesare Lombroso cento anni dopo* (Turin: UTET, 2009); Montaldo and Tappero, eds., *Il Museo di antropologia criminale "Cesare Lombroso"* (Turin: UTET, 2009); Daniele Velo Dalbrenta, *La scienza inquieta: saggio sull'antropologia criminale di Cesare Lombroso*

have long exaggerated the influence of positivist criminology on Italian juridical culture. The legal order was not dominated by radical positivists, nor did it owe to Lombroso and his criminological kinfolk the principles of moderate social defense; rather, it was led by the likes of Ugo Conti and other moderate social-defense jurists who constituted both the numerical majority and the ideological mainstream within the Italian legal establishment.

This study also undermines the long-standing characterization of Italian legal culture as sharply divided, chronically turbulent, and ideologically extreme. It breaks from this traditional narrative by looking beyond the two Caesars and the purported doctrinal conflict between the followers of their respective penal "schools."[11] By taking a wider, more comprehensive view of the Italian legal order, this book claims a radically different trajectory of criminal-law reform. It argues that the Liberal legal establishment was not split into opposing ideological camps, nor was it

(Padua: CEDAM, 2004); Cesare Lombroso, *The Criminal Anthropological Writings of Cesare Lombroso Published in the English Language Periodical Literature during the Late 19th and Early 20th Centuries*, eds. David M. Horton and Katherine E. Rich (Lewiston, NY: Edwin Mellen Press, 2004); Lombroso and Guglielmo Ferrero, *Criminal Woman, the Prostitute and the Normal Woman*, trans. and with a new introduction by Nicole Hahn Rafter and Mary Gibson (Durham: Duke University Press, 2004); Delia Frigessi, *Cesare Lombroso* (Turin: Einaudi, 2003); Baima Bollone, *Dall'antropologia criminale alla criminologia* (Turin: Giappichelli, 2003); Pierpaolo Martucci, *Le piaghe d'Italia: i lombrosiani e i grandi crimini economici nell'Europa di fine Ottocento* (Milan: FrancoAngeli, 2002); and Baima Bollone, *Cesare Lombroso: ovvero, il principio dell'irresponsabilità* (Turin: Società editrice internazionale, 1992). Also see the results of a conference, held in Turin in 2010, centered entirely on Lombroso, the *scuola positiva*, and the 1930 Rocco Code in *Diritto penale XXI secolo* 2:2 (2011). Among earlier studies, see Renzo Villa, *Il deviante e i suoi segni: Lombroso e la nascita dell'antropologia criminale* (Milan: FrancoAngeli, 1985); Luigi Bulferetti, *Cesare Lombroso* (Turin: UTET, 1975); and Marvin E. Wolfgang, "Cesare Lombroso, 1835–1909," in *Pioneers in Criminology*, 2nd ed., ed. Hermann Mannheim (Montclair, NJ: Patterson Smith, 1972), 232–91.

[11] Some scholars have recognized the significant limitations of the two-schools approach, but none has offered a new interpretive framework for analyzing the evolution of criminal-law reform in Restoration, Liberal, and Fascist Italy. See, for example, Ettore Dezza, "Le reazioni del positivismo penale al codice Rocco," in *Il codice penale per il Regno d'Italia (1930)*, ed. Sergio Vinciguerra (Padua: CEDAM, 2010), lix–lxii. Some historians have attempted to complicate this traditional interpretation – usually by adding more penal "schools" or reform movements to the juridical broth – but they have nevertheless perpetuated the classical-versus-positivist model in their studies. See, for example, Guido Neppi Modona, "Giustizia penale," in *Storia d'Italia*, eds. Fabio Levi, Umberto Levra, and Nicola Tranfaglia (Florence: La Nuova Italia, 1978), 2:584–607; and Mario Sbriccoli, "La penalistica civile: Teorie e ideologie nel diritto penale nell'Italia unita," in *Stato e cultura giuridica in Italia dall'unità alla repubblica*, ed. Aldo Schiavone (Rome: Laterza, 1990), 147–232.

more ideologically radical than, and thus isolated from, the more moderate international legal community, as scholarship has suggested; rather, it was broadly, if loosely, unified by penal jurists who shared a general commitment to finding moderate social-defense solutions to Italy's crime problem. That broad consensus, moreover, continued into the Fascist era and was the driving force behind the 1930 Rocco Code's statutes on common crime. Rather than Lombrosian in character, the *Codice Rocco* represented an attempt to systematize moderate social-defense reform ideas worked out over the previous half-century – both in Italy and abroad. It was developed, moreover, in consultation with some of the same moderate social-defense jurists who had shaped penal-reform proposals in the Liberal era and in sustained dialogue with the transnational penal-reform movement. As such, the Rocco statutes on ordinary crime reflected a legal establishment not estranged from the international order but closely aligned with it.

Moreover, this book complicates other conventional readings of the Rocco Code as fundamentally Italian and uniquely fascist. Traditionally, scholars of Fascist criminal justice have seen the 1930 statutes as a radically new departure in criminal law under Mussolini. Focused principally on high politics, they have read the code as an essentially Fascist reinvention of penal law, one that was shaped by the regime's ideology, by political conditions unique to Italy, and by the dictatorship's principal desire to use the criminal code as one of several authoritarian weapons to crush political dissent.[12] Similarly, historians of the Italian legal profession have seen the 1930 code almost exclusively in political terms, and mainly as the product of a "fascistized" juridical order whose members had little choice but to conform to the will of the regime.[13] In contrast, this study reveals that these readings of the Rocco Code are incomplete. While acknowledging that the Rocco Code introduced many authoritarian features designed to suppress anti-fascism, it contends that those "fascist" elements should

[12] See, among others, Neppi Modona and Pelissero, "La politica criminale," 759–847; Cavaliere, *Il diritto penale politico*; Lutz Klinkhammer, "Was there a fascist revolution? The function of penal law in Fascist Italy and in Nazi Germany," *JMIS* 15:3 (2010): 390–409; and Claudio Schwarzenberg, *Diritto e giustizia nell'Italia fascista* (Milan: Mursia, 1977). Also see Chapter 7.

[13] See, for example, Guido Neppi Modona, "La magistratura e il fascismo," in *Fascismo e società italiana*, ed. Guido Quazza (Turin: Einaudi, 1973), 125–82; Klinkhammer, "Was there a fascist revolution?"; and Vittorio Olgiati, "Law as an Instrument of 'Organizational Totalitarianism': Fascist Rule over Italian Lawyers," in *Totalitarian and Post-Totalitarian Law*, eds. Adam Podgorecki and Vittorio Olgiati (Aldershot: Dartmouth, 1996), 123–67. Also see Chapter 7.