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Maura Hametz

Old Dominion University, mhametz@odu.edu

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QUOTIDIAN INTIMIDATION AND MUSSOLINI'S SPECIAL TRIBUNAL IN ISTRIA AND THE EASTERN BORDERLANDS

Maura HAMETZ

Old Dominion University, Norfolk, VA 23529, USA
e-mail: mhametz@odu.edu

ABSTRACT

The article examines the Special Tribunal for the Defense of the State's use of the "no grounds to proceed" ruling to intimidate anti-fascists and extend the fascist government's power in the Adriatic borderlands. It demonstrates how the Tribunal's judges used their sentencing prerogatives to support repression in Istria and cloak persecution in the mantle of legal action in defense of the state.

Keywords: border fascism, Special Tribunal for the Defense of the State, Istria, intimidation, violence

INTIMIDAZIONE QUOTIDIANA E IL TRIBUNALE SPECIALE DI MUSSOLINI IN ISTRIA E AL CONFINE ORIENTALE

SINTESI

L'articolo esamina l'uso da parte del Tribunale speciale per la difesa dello Stato della pratica legale di "non luogo a procedere" per intimidire gli antifascisti ed estendere il potere del governo fascista nelle terre di confine adriatiche. Dimostra come i giudici del Tribunale usassero le proprie prerogative per sostenere la repressione in Istria e coprire la persecuzione antifascista sotto una veste di legalità in difesa dello stato.

Parole chiave: fascismo di confine, Tribunale Speciale per la Difesa dello Stato, Istria, intimidazione, violenza

In January 1929, the Italian police charged thirty-two men, most from Marezige (Maresego),¹ with terrorist acts. The charges brought against them, including association with a “subversive organization,” bombings, arson, and even homicide, stemmed from various reactions to the Italian government’s campaign to extend “border fascism” in the Adriatic territories. In July 1929, the Special Tribunal for the Defense of the State sentenced nine of the men to prison. Four were absolved of the crimes. Eight were declared fugitives, presumably having fled across the border to Yugoslavia. The remaining eleven were released on the ruling that there were “no grounds to proceed” (*non luogo a procedere* or *nlp*) (Dal Pont & Carolini, 1980, 376–377).² The fascist government’s crackdown on dissidents in Istria and Italy’s eastern borderland territories was a response to the “border in arms,” regional violence sparked by political instability and clash that had begun decades earlier in the Adriatic provinces of the Habsburg empire. After World War I, with annexation to Italy and as the fascists sought to consolidate power, violence intensified as autochthonous populations cast as minorities in the borderland sought to articulate nationalist aspirations and defend political rights. The fascist government used various instruments in its arsenal including incitement of the blackshirts, intervention by the police and bringing to bear the power of institutions of justice to enforce its will. The Special Tribunal was the regime’s most formidable institutional weapon, and *non luogo a procedere* was one of tribunal’s most effective tactics of intimidation. Noted anti-fascist Gaetano Salvemini called the Tribunal “the ugliest of the evil works of the regime” due to its ability to “hid[e] under the mantle of a loathsome façade of legality” (Salvemini, 1932, 25). Established as a separate arm of the judicial system and staffed by military officers educated in law, the Tribunal had considerable powers at its disposal to crush political opposition.

Fascist Minister of Justice Alfredo Rocco created the Special Tribunal in the legislative reform of November 1926, and from 1927 to 1943, the extraordinary court considered cases brought against some 16,000 “enemies of the state.” It sentenced more than 4,600 to incarceration, internal exile, hard labor, and or even death. Purportedly, the Special Tribunal was an organ of justice and protection, manned by judges who adhered scrupulously to the processes and rule of law. Both the Ministers of Justice and the Interior, Rocco and Luigi Federzoni respectively, at the time of the Tribunal’s conception, were former leaders of the conservative Nationalist Party (see De Grand, 1978). Both were intent on

1 Placenames appear throughout as they are most commonly written today. Where the Tribunal used a different name, in the first reference to the locality the Tribunal’s name is in parentheses as in Marezige (Maresego).

2 In several cases, sources offer conflicting counts of those indicted in the Special Tribunal’s proceedings. Unless otherwise noted, the figures are derived from Dal Pont & Carolini, 1980, which counts those processes officially recorded in Rome. Zealous local enforcement, extra-legal collaboration with police and fascist officials and the general tolerance for ethnic persecution meant that many were threatened, arrested, or jailed without the benefit of official processing. Still others were referred to ordinary courts. Strategic official counting helps to explain the variation in estimates of those affected by the Court’s rulings (and the higher figures cited by such scholars as Čermelj), and emphasizes the intentional nature of fascist efforts to underplay the Tribunal’s role in undermining the Italian justice system and ignoring liberal legal precedents.

shaping the court in a manner that aligned with judicial precedent and, at the same time, they gave it broad powers to assess evidence, consider testimony, and investigate charges, which enabled it to become the most powerful fascist legal institution in the prosecution of political opponents and in the persecution of anti-fascist resisters. The Court's commitment to legality and due process of law was not mere camouflage or alibi. It was a mechanism of fascist repression.

In the Adriatic borderlands, anti-fascism was often associated with ethno-nationalist "foreignness," which was also often intertwined with anti-national separatism or calls for political autonomy. Political resistance had deep roots in opposition to central authority, particularly to Rome and Italian irredentism which had targeted the Habsburg Adriatic territories since the founding of the modern Italian state. Tensions and violence of the prewar period were heightened by wartime violence and bitterness over post-World War I treaty provisions which failed to take into account ethno-nationalist claims and drew new borders which created significant ethnic minority populations within Italy (see Gatterer, 1968 and Rusinow, 1969.) From the point of view of autochthonous Slovenes and Croats, the extension of Italian sovereignty amounted to what might be termed "proximate colonization" of the border territories, an unjust and prejudicial conquest by the metropole Rome that was resisted by the "colonized" populations that the fascists were trying simultaneously to quash with violence and erase by assimilation (Matajic, 2016).

Myriad studies explore fascist persecution through the lens of cases and individuals tried by the court, even focusing on the Tribunal's targeting of Slovenes and Croats and violations of the autochthonous populations' rights in attempts to assimilate or eliminate "foreign" or allogeneic elements in the eastern borderland (Puppini, Verginella & Verocchio, 2003; Verginella, 2008; Wörsdörfer, 2004). The thirty-two men charged in 1929 were well accustomed to Italian political repression in the Adriatic provinces, as Marezige had emerged as early as 1921 as a site of anti-fascist political violence. On 15 May 1921, the day of the first national elections held after Istria's annexation to Italy, a political showdown in the village had left twenty-two dead including six fascists, five socialists and communists, ten bystanders, and one policeman.³ By January 1929 when the men from Marezige were arrested and referred to the Tribunal, they were already aware of the Italian government's suspicion and targeting of the village. When the eleven were released "nlp" in May 1929, they certainly recognized that the ruling did not restore their freedom. "Non luogo a procedere" differed from absolution (*assoluzione*), a release from the accusation, and it did not mean acquittal (*proscoglimento*), a "not guilty" ruling or declaration. "Nlp" offered a reprieve, freeing individuals and allowing them to return them to society, but keeping them under the government's thumb by subjecting them to surveillance and re-arrest should additional evidence come to light or if they ran afoul of the authorities again. The ruling reinforced the regime's authority, discouraging dissidence by implicit rather than explicit threat and sowing uncertainty and insecurity.

The Special Tribunal served, in many instances, as the velvet glove hiding the regime's iron fist. It systematized and generalized the climate of threat, instilling a subtle

3 Commemorated as the Marezige Revolt.



Fig. 1: The Commemoration of the Marezige Revolt in 2014 (photo by Darko Darovec).

and insidious fear that hung like a cloud over the eastern borderland for the entire period of the fascist *ventennio*. Targeted arrests and referrals to the jurisdiction of the Tribunal reminded the population of the government's omnipresence and power. The referral process, no matter what the outcome of the trials, affected profoundly not only the arrested individuals, their families, and associates, but also their communities.

Scholarly attention focuses on cases that illustrate the court's ferocity as a tool of the authoritarian fascist government. But, as legal scholars have noted, the Tribunal was inconsistent in its repression and in its mode of dispensing justice (or injustice). As it developed over the course of nearly two decades in the evolving fascist system, it served as a "laboratory of experimentation with roles and instruments that then found a definitive place in the penal code" (Lacchè, 2015). Many who were aware of the vagaries of the prewar justice system saw, in the judges' use of discretion and "nlp," proof of adherence to the rule of law and a sliver of hope for justice when the Court heard their cases.

In an article in *La Stampa* in May 1931, Minister of Justice Rocco assured Italians that the Special Tribunal was severe only in cases where severity was warranted. And in fact, a glance at the statistics of the Tribunal's sentencing seems to bear this out. The court did not punish the majority of those referred to it. Some 10,000 individuals' cases were sent to other courts, dismissed, suspended, or put aside. From its first cases in 1927 to the final hearings in 1943, the Court's most frequently rendered judgment was "no grounds to

proceed.” In the first year alone, 1927, 405 of 915 accused were released “nlp” (Dal Pont and Carolini, 1980, 11). Rocco specifically referred to the use of “nlp” in cases where the “proof was not sure,” it demonstrated, he claimed, that the Tribunal was “benevolent” in its treatment of the accused (Salvemini, 1932, 41–42).

In addition to nlp’s utility in underlining the regime’s “benevolence,” the ruling had considerable propaganda value. In the Adriatic borderlands, attacks against the state were cast as Slavic irredentism and Yugoslav state-inspired violence, and were coupled often with worker, socialist, and communist unrest. Virginio Gayda, one of Mussolini’s chief propagandists and an outspoken critic of the “Slavs” and of the Serbian government in Belgrade before the First World War, cited ninety “terrorist crimes” in Venezia Giulia in the three year period from 1927 to 1930, ranging from spying to homicide “always accompanied by a wide clandestine distribution of Slavic leaflets against Italy” (Gayda, 1933, 69). Playing to conceptions of the dangerous and uncivilized Balkans (Todorova, 1997), Gayda trumpeted allegations that use of “bloody violence in the service of politics” was an “ancient Serbian tactic” and charged Yugoslavia with pursuing “war against Italy accompanied by terrorist action of various armed bands” (Gayda, 1933, 65).

Gayda’s tales of terror, while certainly exaggerated and skewed to emphasize threat from abroad, were not spun of air. The “scramble for Adria,” or conflicts for territorial control of the Adriatic lands, had been on-going for centuries (Klabjan, 2011; Kacin Wohinz & Pirjevec, 1998). Ethnic Slovene and Croatian irredentists or separatists, some from across the border but many locally-based, met fascist aggression with reciprocal violence that included attacks on the *carabinieri*, border police, and the military as well as Slovene and Croat “collaborationists,” supporters of the regime suspected as informers (Cattaruzza, 2017, 138–140). Resisters adopted tactics and strategies familiar from anti-government protest of the Habsburg period including the torching of schools and kindergartens, attacks on railways, and destruction of private and government property.

In places like Marezige, releases “nlp” and other seemingly lenient or just rulings had a chilling rather than placating effect on the population. The rulings were reminders of the unpredictability of fascist governance and enhanced local apprehensions regarding the vulnerability and liminality of borderland populations. The 1926 Provisions, which had created the Tribunal, allowed for draconian punishments and even re-introduced capital punishment (Legge 25 novembre 1926, No. 2008). The justices signaled their complicity in the state sanctioned violence in the use of harsh punishments and even the death penalty. Yet, the government insisted that the Tribunal adhered to legal processes guided by European notions of liberal justice, and it maintained that force and repression were used only in cases where clear proof of culpability for “terrorist” crimes was present.

The “nlp” ruling lent the Tribunal an air of legitimacy and offered an administrative screen for court officers. Its use affirmed court adherence to juridical procedures and evidentiary rules inherited from the liberal era and signaled that judges were committed to due process and acted with restraint. Once a suspect was released, the individual could be surveilled or harassed, beaten, or even murdered, but the court and judges were distanced from violence and “spontaneous” attacks that were blamed on “unruly” or overzealous elements taking justice into their own hands (often with the tacit consent of authorities).

Recent studies explore the impact of “everyday violence” on fascist society. Victims’ perspectives tend to predominate in accounts that highlight aggressive tactics employed against those involved in episodic outbursts and incidents of clash (Ebner, 2011; Bosworth, 2006; Dunnage, 2012; Duggan, 2013; Pires Marques, 2013). Inspired by studies of the “everyday” predicated on the German experience, this scholarship shines a spotlight on violent acts, tending to present the experience of physical violence linked to squadrist violence, police brutality, and targeted attacks against political opponents as a normal, quotidian expectation under the regime. The fascist regime was certainly ushered in by violence, and a level of state-sanctioned violence, led generally by various arms of the police or military and assisted by “over exuberant” fascist supporters and adherents, continued throughout the twenty years of rule. Some level of institutional tolerance of violence had always been embedded in the legal system as part of the functioning of the state (Bosworth, 2006; Lyttelton, 1988; Olgiatei & Podgorecki, 1996; Garfinkel, 2017). Yet, while fascist officialdom was complicit in allowing or even sponsoring attacks on the political opposition, by the time the Tribunal was created, violent incidents were not everyday occurrences. The fascists certainly persecuted thousands and used political exile and other repressive strategies (Ebner, 2011), but the regime did not depend on violence to eliminate its enemies. By the mid-1920s, new institutions that undermined the liberal foundation of the state and sought to maintain the fascist hold over Italian society impinged more often on the normal, everyday life of the majority. As was evident in the fascist rise to power and the March on Rome in 1922, intimidation and threat were tactics the fascists’ employed with finesse.

Scholars frequently refer to the gaps between “legal Italy” and “real Italy,” the schism between the government’s rule and intents and the ways in which individuals experienced and negotiated them. But many have been hesitant to explore the legal processes that contributed to the establishment of fascist institutions and governed fascist society. Insistence that the regime’s institutions were extraordinary, subject to the whims of dictatorship, and contingent on extra-legal manipulation, have limited the systematic study of what institutional “legal Italy” under fascism really entailed. Created as part of the Rocco legal reform as an extraordinary and temporary institution, the Special Tribunal became a permanent fixture of the fascist government in 1931. Established as a military tribunal composed of military personnel and using military legal procedure, it was inserted into the extant judiciary frameworks, and it worked in concert with policing institutions to address political concerns and serve political objectives. Despite its political function, the tribunal maintained an air of political legitimacy and served as a tool to garner international respect for the regime (Lacchè, 2015; D’Alessandro, 2015, 153; Vinci, 2016).

The regime’s claims that the tribunal was an instrument of justice, no matter how spurious, were bolstered by comparison to the contemporaneous Nazi *Volksgesichtshof*. Both were created in the fashion of military tribunals to defend the interests of the authoritarian state. However, over the course of its existence, the Italian fascist Tribunal punished only twenty-eight percent of the 16,000 individuals who came before it. From 1927 to 1939, it sentenced fifteen to capital punishment. Even in the period of alignment with Hitler’s Nazi Germany that led up to Italy’s entry into the war and until the Italian

surrender, in the years from 1939 to 1943, the court used the death penalty with relative restraint, 53 were condemned to death (Torrise & Salvatore, 2016, 90). By comparison, the *Volksgerichtshof*, over the course of its existence from 1934 to 1945, condemned more than 5,000 of 18,000 convicted to capital punishment (Eder, 2002; Wagner & Zarusky, 2011; Sweet, 1974). The contrast was evident even at the time, with the Nazi court garnering significantly more international attention as a tool of dictatorship.

The literature of fascism does often label Mussolini's institutions and those involved in them as part of the "problem" or "evil" of fascism or the fascist system. The Tribunal often appears as the infamous "Hall IV" or "Palazzacio," the dreaded courtroom on Capitoline Hill or as an example of the fascist regime's nefariousness (for example Salvemini, 1932; Longhitano, 1995; Čermelj, 1936; Lussu, 1997). Works on such figures as Antonio Gramsci, the Rosselli brothers, and Violet Gibson (the would-be assassin of Mussolini) detail the effects of encounters with the Special Tribunal, its reaction to anti-fascists and resistance, and its particular mode of dispensing justice (see, for example, Saunders, 2010; Tranfaglia, 1968; Pugliese, 1999; Camminati & Rosati 1980; Del Boca, 2005).

Recent works examine more closely the Tribunal's role in the fascist state and judicial system (Lacchè, 2015; Franzinelli, 2017; Torrise & Salvatore, 2016). The Tribunal was not a kangaroo court punishing those suspected of crimes against the state. It was a part of the juridical structure with influence that extended far beyond its halls. Its importance lay not in the Court's ability to dole out draconian punishments, but in its power to legitimize intimidation and quell resistance under the guise of offering legal protections to maintain the stability of the state.

Detachment from direct violence and the ability to maintain the aura of lawfulness promoted the impression that Italian justice prevailed, even if the fascist police acted unfairly. As Gaetano Baroni, a committed anti-fascist associated with the communist painter's association in Lombardy wrote to his wife Maria Vaccari in August 1928 while awaiting his hearing before the Tribunal, "[...] justice must take its course [...] I await questioning by the judge." Imprisoned for complicity in the assassination attempt on the King at the Fiera di Milano, as his wife pled for his liberty and suggested that his arrest had been based on suspicions alone (Arrigoni & Savini, 2008, 190–196), he expressed faith in the justice system. "Let's trust in justice and you will see that it will not wrongly punish the innocent" (Letter from Gaetano Baroni to Maria Baroni, 2 August 1928, ACS, TSDS, PG, b. 1, f. 3). Baroni would certainly have been aware that his letters from jail were censored, and his professed faith in the judges of the Tribunal may have been a ploy to help him win a more sympathetic hearing. And, as this was early in the Tribunal's existence, its motives and tactics might not yet have been fully recognized. Nonetheless, Baroni's declaration of hope reflected a popular conception that the tribunal's judges were committed to serving justice and would offer a fair hearing. In fact, on 14 September 1928, the judge did release Baroni on an "nlp" finding (Dal Pont & Carolini, 1980, 226).

In cases related to the eastern borderland and particularly those in areas with significant Slovene or Croat populations, from the tip of Pula to the northernmost point of Gorizia, dozens were freed "non luogo a procedere." The "nlp" ruling helped to support the regime's contention that elements from abroad instigated the crossfire of violence.

Gayda claimed that the *carabinieri* and the border police's increased activity protected the autochthonous population, which the regime touted as overwhelmingly supportive of fascism against the "bloody, savage, and gloomy violence" being perpetrated by "hostile emissaries" from across the border intent of spreading "misery and disorder" (Gayda, 1933, 65–66). The Special Tribunal took advantage of the perceived danger to mete out justice as if the borderlands were under siege and to justify harsh punishments considered necessary to deal with the foreign-backed threats associated with Balkan or Yugoslav conspirators.

Deep distrust of ethnic "others" and fascism's political enemies was embedded in the minds of those crafting the "protective" legislation. Francesco Giunta was among the fascist lawyers who examined the legislation for the defense of the state prior to its promulgation in 1926. As Undersecretary to the President of the Council of Ministers in 1927, he described the Tribunal as an organ to combat "known and hidden enemies" (Lacchè, 2015, xxii). His observation certainly brought to bear the same prejudiced attitudes that had motivated him as the leader of the *Fasci di combattimento* in Trieste inciting violence as fascism gained power, and when in 1920 he was involved in the burning of *Narodni Dom*.

Members of the local population, accustomed to violent tactics and government repression, recognized the structural methods and tools of institutional persecution cloaked in the mantle of law. The Interior Ministry referred matters to the Special Tribunal. From the court's first case in February 1927, dealing with Oscar Hoharovic, the Tribunal's focus on threats in the borderland was evident. Hoharovic, born in 1894 in Sušak (Sussak) and living in Pivka (San Pietro del Carso), was charged with condoning the Zamboni assassination attempt, praising Bolshevism, defaming [government] institutions, and offending Mussolini. The Special Tribunal referred his case to the ordinary courts (Dal Pont & Carolini, 1980, 18), but calculated reference to his ethnic origins heightened fears that ethnic "Slavs" were plotting against Italy.

In 1929, three men charged with setting fire to the *Lega Nazionale* headquarters in Prosecco (Prosek), known "Yugoslav" sympathizers, were set free "nlp" (Dal Ponte & Carolini, 1980, 358–359). Their fate demonstrates the ambiguities inherent in the use of the "no grounds to proceed" ruling. The ruling seems to demonstrate that the Court sought sufficient legal evidence to proceed with its case. In actuality, if conviction had been the sole aim, charges against the men could have been trumped up from the time of their arrest as part of a concerted strategy involving the police and the court. Instead, the Tribunal seemed to exercise restraint. Perhaps the aim was to demonstrate devotion to the rule of law and benevolence for political or propagandistic purposes. The ruling also could have been intended as a warning to discourage future acts of resistance.

If for the Special Tribunal "repression" and "prevention" were "two sides of the same coin" (Lacchè 2015, xxi), then "nlp" functioned as a strategy of deterrence. The combination of harsh punishments for a few with a significant number of dismissals "nlp" was particularly suited to bolstering propaganda claims. The regime publicized crimes by "enemies of the state" to prove the need to protect Italy from foreign-backed terrorists linked to Yugoslavia, whose barbarous behavior was undertaken against the civilized and modern Italian state. While Gayda crowed about the desecration of monuments and the

effacing of the Venetian lion on city walls along the Adriatic coast, holding such incidents up as evidence of an organized anti-Italian conspiracy in Yugoslavia (Gayda, 1933, 33, 42–43), police arrested non-violent suspects in Italy, and the Ministry of the Interior, deeming them foreign terrorists and “enemies of the state.” All the time, the Special Tribunal took care to preserve the pretense of justice and due process. For example, of five men charged in 1930 with being part of the Communist Party and spreading subversive propaganda in Pula, only one was actually condemned by the Court, receiving a punishment of four years in prison. The other four were released “nlp” (Dal Ponte & Carolini, 1980, 412) preserving the façade of attention to European legal norms, while contributing to the ongoing persecution.

“Nlp” reflected the Italian prejudice that allogenic locals caught in the crosshairs of violence were vulnerable to the seduction of foreign-backed terrorist networks, but might, as assimilable peoples susceptible to the superior civilizing influence of Italy, require only a grave warning to ensure that they followed the Italian fascist path. The regime used the Tribunal to target communities where resistance was historically strong. The government cracked down on those harboring fugitives or engaged in other forms of resistance, which the fascists contended were linked to organized groups of criminals and terrorists. In the first years of the Special Tribunal’s existence, the Ministry referred cases that stemmed from actions taken before the laws for the protection of the state were promulgated, a clear violation of European legal norms that precluded retroactive prosecution. Thirty people rounded up in Vižinada (Visinada) and charged with *soccorso rosso*, possession of ciphers, and circulating subversive materials were freed “nlp” *en masse* in September 1927 (Dal Ponte & Carolini, 1980, 117–118). Their arrests were clearly intended to tyrannize the population in the village of 1,000, and their release was part of the general amnesty granted in 1927 to individuals held on crimes committed prior to July 1925. Highly publicized by the government, the amnesty aimed to increase Mussolini’s international prestige by underlining the regime’s commitment to upholding justice and legal precedent. The well-touted triumph of “legality” deflected attention from the persecution of individuals arrested, and the fascist government made no apologies or recompense for their detention.

Regardless of the Court’s intents, any belief that the Court could sap the strength of the local resistance to fascism proved vain. As the regime’s priorities shifted, the Tribunal’s targets evolved. From 1927 to 1940, the Court was transformed from an “extraordinary tribunal to defend the fascist revolution” to a “fascist tribunal to defend the regime” (Torrisi & Salvatore, 2016, 23–35). From its initial focus on those involved in assassination attempts, the Court’s attention shifted by 1929 to those involved in “terrorist” activity, irredentism, and the “Slavic” threat in the Adriatic provinces. By 1932, the Special Tribunal had turned to subversive organizations in northern and north central Italy, the actions of anti-fascist communists, socialists and members of Giustizia e Libertà.

Prosecution of “enemies” in the eastern borderland continued throughout the *ventennio* (Puppini, Verginella & Verrocchio, 2003). Repression of political opposition became the basis for cyclical, escalating violence (Verginella, 2008; Piazza, 2001). In March 1929, a plebiscite on government policy sparked violence near Pazin (Pisino) in which

anti-fascists fired on a column of peasants being escorted to the polls, killing one villager and wounding another. The police arrested a number of locals and the Special Tribunal tried the men in a proceeding held in Pula (Pola). The fascists suspected the accused of associating with local anti-fascist organizations including TIGR (Trst, Istra, Gorica, Rijeka) and Borba (Struggle), modelled on the Irish Republican Army, known for adopting violent tactics (Dell'Osa, 2017, 81).

On his way to Pula for the proceedings, President of the Tribunal Guido Cristini granted an interview, published on the front page of *Il Giornale d'Italia* on 15 October 1929, which made clear the sham trial and the court's murderous intents. Cristini claimed that "the guilt of the accused" was "beyond doubt." He declared the court willing to use the death penalty (Dell'Osa, 2017, 263–264), despite several questions relating to the proof of the crime including: the fact that the evidence suggested that the shooters had intended to fire above the heads of those in column; the contention that the death resulted from crossfire between the police escorts and those in the column; and the fact that the person who actually shot the victims could not be identified. Four received 30 year sentences, and Vladimiro Gortan, named as the leader of the attack, was executed (Gayda, 1933, 72–73; Cattaruzza, 2017, 138–139; Dell'Osa, 2017, 73–80). Three were released "nlp" (Dal Ponte & Carolini, 1980, 373). The execution transformed Gortan into an anti-fascist martyr and a symbol of national struggle for the Croats in Istria (Dell'Osa, 2017, 73).

The Tribunal's rulings sent a message to local populations contemplating further resistance. For example, in Dolina (San Dorligo), a municipality of 5000 residents, four were sentenced to significant prison terms of 5 to 25 years and an additional two dozen, who had been arrested, were released "nlp" (Dal Pont & Carolini, 1980, 414–417). They returned to the village under a cloud of suspicion, closely surveilled by authorities. The arrests and prosecutions were likely retaliation for attacks on fascist officials and sympathizers carried out by villagers or Yugoslav nationals hiding in the area (Apollonio, 2004, 193–194).

In 1930, in the Court's most nefarious borderland verdict, four of the defendants in the *Il Popolo di Trieste* bombing trial were sentenced to death by firing squad. A dozen others received prison terms ranging from 2 ½ to 30 years. The Tribunal marshalled mountains of evidence against the accused in apparent adherence to standards and rules of European law. The evidence linked the defendants to numerous terrorist acts including the mining of bridges, destruction of train track, and plotting to destroy local monuments including the Victory Lighthouse (Apollonio, 2004, 195). In both the Pazin shooting in 1929 and the *Il popolo* bombing in Trieste in 1930, anti-fascist political acts were construed as ethnic or nationalist crimes supported by Yugoslav irredentists seeking to terrorize those in the region. The press, including *Il Popolo di Trieste*, characterized the accused as "Slavic" criminals, describing them in physical terms that played on anti-Slavic prejudices and associating their delinquency with hatred for Italy and an "uncivilized" nature (Klabjan, s.a.).

Yet, in the late 1920s and early 1930s, ethnic identification was not a defining factor in Istria where ethnic lines and distinctions were impossible to draw on an individual basis among individuals in the lands recently annexed from the multi-ethnic Habsburg empire

(D'Alessio, 2008). Neither those accused of terrorism nor the regime's supporters in the borderland were identifiable in ethnic terms. A "Slovene" alerted police to a suspicious package outside police headquarters in Trieste that turned out to be a pipe bomb (ACS, TSDS, PG, b. 367 and ASTs, AG). Slovenes who "collaborated" with Italian authorities were targeted by anti-fascist "Slovene" groups. In the investigations of the *Il Popolo* bombing, Slovene interpreters were available and used by a few defendants, but most of the accused spoke and chose to be interrogated in Italian. Several bore Slavic last names, but these were common particularly in Istrian villages and towns in the borderland, despite the fascist surname italianization campaign.

Evidence collected from the home of suspect Alojz Valenčič, an envelope containing a souvenir marked "a hair from the head of the martyred Oberdan" (ACS, TSDS, PG, b. 359) testified to the "terrorists'" political rather than ethnic motives. In the first decades of the twentieth century, Guglielmo Oberdan or Wilhelm Oberdank, executed in 1882 for an assassination attempt on the life of Austrian Emperor Franz Josef, was hailed as an anti-Habsburg, protestor against oppressive government. Prior to World War I, he was counted a "martyr" by both Slovene and Italian nationalists (Salata, 1924; Wörsdörfer, 2004). Instructions sent to Trieste from Rome on 31 August 1930 noted that leaflets found at both the Victory Lighthouse and *Il Popolo* crime scenes implicated the Italian anti-fascist organization Giustizia e Libertà (ASTs, Pref. Gab., b. 191). While the materials may have been planted, they further testify to the interethnic nature of anti-fascist activity.

Although border fascism had targeted ethnic Slavs (Croats and Slovenes), thought to be in league with Yugoslav irredentists (see Cattaruzza, 2017, 125–138), Cristini hesitated to condemn individuals on ethnic grounds. In *Il Giornale d'Italia*, he claimed that the Tribunal protected "pacific, hard-working autochthonous population of Central Istria," and that its harsh rulings aimed only at the "Balkan mentality of terrorist organizations" illegally agitating inside Italy's borders. Like Gayda, Cristini distinguished between local residents and foreign terrorists, and he argued, "Public security forces cannot allow this type of [foreign-inspired] brigandage to take place in a tranquil zone" (Dell'Osa, 2017, 263–264).

Resistance to the fascist denationalization campaign, linked both to Rome's nationalizing schemes and to the local ethno-nationalist antagonism (Cattaruzza, 2017, 146), brought many individuals before the Special Tribunal for violating prohibitions on the use of the Slovene and Croatian languages. Giovanni Smrdel, from Kal (Cal di San Michele) in Pivka, was charged with subversive propaganda in May 1928, when in a tavern in Rome while serving his final months of compulsory military service he was overheard to say in Slovene, "We are still Italians for three months" (Dal Pont & Carolini, 1980, 216). In 1931, Gaspare Barcovich from Mošćenice (Moschiena) allegedly incited his son to ignore the requirement to speak Italian in school (Dal Pont & Carolini, 1980, 526). Both were arrested and later released "nlp." In 1931, Antonio Prosen came before the Court charged with subversive activity for "defacing" a tombstone with a Slovene inscription dedicated to his friend. The Tribunal referred him to the ordinary court, declaring it as a simple act of vandalism (Dal Ponte & Carolini, 1980, 441). The Tribunal's failure to punish the accused in these and similar cases contributed to a sense that the court might

temper the actions of police and prosecutors, but the arrests and process had a chilling effect nonetheless.

In the celebrated *Il Popolo* case, forty-one individuals in the group of eighty-seven named at the sentencing were set free “nlp,” and two were absolved of the crimes. These individuals, along with the twenty-seven fugitives, faded back into the tapestry of borderland society. But, international attention focused on the four executed “martyrs of Basovizza” (Bazovica) and the 45 year old farmer who died in prison. The severity of the penalties fueled the narrative of fascist persecution and contributed to the martyrology of the borderland resistance. Those sentenced to death in the extraordinary Tribunal session held in Trieste were convicted of *strage* or aggravated homicide, not *omicidio* or simple homicide. Literally translated *strage* means slaughter of many people or animals, and the fascist government used the charge to underline the dangerous, evil, and unprovoked nature of a murder. The execution of the four signaled the Court’s willingness to support the fascist campaign of ethnic prejudice and repression and to facilitate controlled, sanctioned, and officially condoned violence.

The repercussions of the *Il Popolo* case rippled through the borderlands in the coming years. In 1933 in Branik (Rifembergo) in Gorizia, a commemoration of anniversary of the condemnation and death the “martyrs” of September 1930 led to the arrest and conviction of 8 people, all of whom received sentences ranging from 1 to 5 years on charges of illegal association and subversive propaganda (Dal Pont & Carolini, 1980, 732–733).

By the mid-1930s, the Tribunal became a “revolutionary organ” to combat all forms of anti-fascism at home and abroad (Lacchè, 2015, xxii). The regime’s foray into East Africa added opponents of racial and imperial policies to the mix of “national enemies,” but “criminals” in the borderland remained a significant concern. Bruno Pobega, a smallholder in Koper, was accused of public insult to the nation in 1935 for saying to his grandson, “You are ashamed to speak [Slavic] now that you have become a fascist, but you should be ashamed of being a fascist” (Dal Pont & Carolini, 1980, 825). In 1938, 26 people in Motovun (Montona) (Pula) were charged with reconstructing the Communist Party and spreading subversive propaganda. The group seemed particularly dangerous, because it operated in an area the fascists had deemed socially and politically “cleansed” (*bonifica*), and the defendants’ “Slavic” identity challenged claims that the fascists were succeeding in their efforts to mold a “pure” Italian nation. Four of those charged in Motovun were absolved, and seven were released “no grounds to proceed.” The remaining 15 received sentences ranging from 1 to 10 years (Dal Ponte & Carolini, 1980, 962–963).

After Italy’s entry into World War II in 1940, the Tribunal took on the character of a military tribunal, meting out punishments to those considered traitors (Torrise & Salvatore, 2016, 35–38). Fascist authorities made several hundred arrests in Venezia Giulia, and in proceedings that came to be known as the “Second Proceedings in Trieste” (second after the 1930 trial), seventy-two people divided into three groups – allegedly according to their political leanings (communists, liberal irredentists, and supporters of [Yugoslav] political emigres) – were tried on charges of irredentist and clandestine anti-fascist activity. The political divisions fascist officials drew to define

the three most dangerous elements in the borderland were artificial at best. The groups were permeable and intertwined, and the arrests really represented a renewed attack on Slovenes in the Snežnik (Monte Nevoso) area, a hot-bed of anti-fascist activity since the mid-1920s. The assault on the liberal irredentists targeted the professional classes and signified a renewed effort at denationalization (Verginella, 2003, 108–109). The Tribunal condemned eight to death (several had their punishments commuted to life in prison) and twenty-three others, linked to TIGR, to thirty years imprisonment on a variety of charges including spying, attacks on the security of the state, and subversive propaganda and association in prohibited political organizations (Dal Ponte & Carolini, 1980, 1117–1120; Cattaruzza, 2017, 170–171). The rulings indicated the Court's shift from an instrument of control and intimidation to an instrument of punishment. In the group of seventy-two, only four were released “nlp,” four were absolved of their crimes, and ten were recorded as fugitives.

In 1941, Italian fascist wartime occupation of Slovenia and Dalmatia prompted an increase in resistance and terrorist activity (Cattaruzza, 2017, 170–171) in the Adriatic territories. In the final years of the Tribunal's existence, the majority faced charges connected to wartime crimes including defeatism, failure to support the regime, subversive actions, or aiding or abetting the enemy. The final sentences handed down between February and May 1943 dealt almost exclusively with partisan activity and charges of support for the enemy in Istria, Gorizia, and Rijeka. Investigations and arrests by the Special Inspectorate of the Security Forces, founded in Trieste in 1942 to respond to increasing sympathy and support for partisan violence, contributed to the uptick in referrals to the Tribunal. Still, the regime and the Court sought to maintain the façade of legality (see Cernigoi, 2013, 17–37). In April 1943, ten suspects, seven men and three women ranging in age from 30 to 69, charged with aiding rebel bands in Rijeka (Fiume) area were freed “nlp” after seven months in jail (Dal Ponte & Carolini, 1980, 1257).

The Special Tribunal dissolved along with Mussolini's government in 1943. Yet, the policing structures and persecution it had enabled, along with the example of judicial prejudice, had eroded local confidence in Italian institutions. The population was inured to injustice and, in the circumstances of wartime after 1943, this sentiment may have helped to lay the structural groundwork that allowed for persecution, torture, and murder in the construction and local functioning of the camp at the Risiera di San Sabba, where the Nazis adopted their own methods to eliminate “enemies,” particularly members of the local autochthonous populations already accustomed to police repression and persecution. The Tribunal certainly contributed to local toleration of violence and the climate of suspicion, reprisal, and vengeance, well documented in studies of the abrogation of minority rights (Piergigli, 2005) and controversies over the use of violence, charges of genocide and ethnic cleansing associated with the *foibes* (Pirjevec, 2009; Cernigoi, 2013) during the war and in the immediate post-World War II period.

Even at its most intimidating, the fascist government insured that the Tribunal could plausibly be referred to as a body committed to upholding the rule of law. Officers of the Tribunal hid behind a screen of legal precedent and sham justice supporting an institutional climate and structures that intimidated the public into a coerced cooperation with

the regime that, in certain circumstances, bled over into consensus and even collaboration. Salvemini claimed that the Special Tribunal was “not a court of justice,” but “an instrument of civil war” (Salvemini, 1932, 44). The “no grounds to proceed” ruling was employed as a mechanism of fascist repression. It offered cover to fascist officials by supporting claims of adherence to the norms of the rule of law in a regime that justified the abnegation of liberal freedoms in the name of state defense.

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VSAKODNEVNO ZASTRAŠEVANJE IN MUSSOLINIJEVO POSEBNO
SODIŠČE V ISTRICI IN VZHODNIH OBMEJNIH OBMOČJIH

Maura HAMETZ

Old Dominion University, Norfolk, VA 23529, ZDA

e-mail: mhametz@odu.edu

POVZETEK

Spirale nasilja, ki jih je izzvala fašistična represija na obmejnih območjih severnega Jadrana, vzbujajo zanimanje raziskovalcev že od obdobja med svetovnima vojnama. Manj pozornosti je bilo namenjeno naporom fašističnega režima, da bi zatrl antifašizem z uporabo pravnih sredstev in sodnega sistema. Prispevek obravnava delovanje Posebnega sodišča za zaščito države v vzhodnih obmejnih pokrajinah od leta 1927 do leta 1943 skozi prizmo sklepa sodišča »brez pravne podlage za nadaljevanje«. Fašistični sodniki so na izrednih vojaških sodiščih uporabili ta sklep, da bi povečali zaupanje javnosti v redne pravne postopke in ob tem istočasno okrepili občutek zastrašenosti in preganjanja z namenom zadušiti upor ter opraviti z »oboroženo mejo« po pravni poti. Široka pooblastila, ki jih je dobilo Posebno sodišče, so omogočila fašistični vladi povečati domet diktatorskega vladanja preko vloge policije in vojaške sile, tako da so sodni organi sodelovali pri ustvarjanju podobe nasprotnikov kot etno-nacionalističnih sovražnikov in političnih teroristov.

Ključne besede: obmejni fašizem, Posebno sodišče za zaščito države, Istra, zastraševanje, nasilje

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