
TABLE OF CONTENTS

<i>Acknowledgements</i>	vii
<i>List of Contributors</i>	xiii

<i>Introduction: Glancing in the Mirror at Ideology and Criminal Law Under Fascist, National Socialist and Authoritarian Regimes</i>	1
Stephen Skinner	

PART I BELIEFS, FOUNDATIONS AND IDENTITIES

1. <i>'Also and Above All a Regime of Justice'. Criminal Law and the Aesthetics of Justice Under the Italian Fascist Regime: The Role of Architecture and the Visual Arts</i>	9
Luigi Lacchè	
Introduction.....	9
<i>Primum reprimere</i>	10
Criminal Justice Implementing the Political Ideology of the New Regime.....	12
<i>Fiat iustitia pereat mundus?</i>	15
Representing Justice: The Role of Architecture and the Visual Arts.....	22
<i>Fiat iustitia ne pereat mundus!</i> Some (Provisional) Conclusions.....	31
2. <i>Criminal Law in Auschwitz: Positivism, Natural Law and the Career of SS Lawyer Konrad Morgen</i>	33
David Fraser	
Criminal Law in the Criminal State: Re-imagining the Jurisprudence of Nazi Law.....	33
History, Law and 'Murder' in the Camps: The Continuing Mythology of the Criminal State.....	35
Konrad Morgen, SS Judge, and the Law of Killing.....	38
Nazi Law, Natural Law, Positivism and the Jurisprudence of Konrad Morgen.....	48
Conclusion.....	55
3. <i>Nazi Law as Non-law in Academic Discourse</i>	59
Simon Lavis	
Introduction: Non-law and the Third Reich.....	59
Constructing the Rupture Thesis: The Genesis of Nazi Law as Non-law.....	61
Reproducing the Rupture Thesis: The Persistence of the Non-law Paradigm.....	71
Conclusion.....	75

4.	<i>Nazi Criminal Justice in the Transnational Arena: The 1935 International Penal and Penitentiary Congress in Berlin</i>	77
	Richard F Wetzell	
	Introduction	77
	Transnational Penal Reform Networks.....	79
	Three Visions of Nazi Penal Reform	82
	An International Congress in Nazi Berlin.....	87
	Aftermath: International Criticism	98
	Conclusion.....	100
5.	<i>Criminology and the Rise of Authoritarian Criminal Law, 1930s–1940s</i>	105
	Michele Pifferi	
	Introduction: The Historiographical Problem of Continuity or Rupture	105
	Rhetoric and Discourses: The Many Voices of Criminology	108
	The Divide Between Positivist Criminology and Totalitarian Penal Systems	112
	The Constitutional Fallout of Criminology.....	116
	Conclusion.....	122
6.	<i>Classifying Law as Criminal in Apartheid South Africa</i>	125
	Marika Giles Samson	
	Introduction	125
	The Outset of Modern Apartheid: The Two Faces of Law.....	127
	Criminal Law and the Authoritarian Crackdown.....	132
	The International Crime of Apartheid.....	136
	Conclusion.....	142

PART II
COURTS, LAWYERS AND REPRESSION

7.	<i>Coercion and Consensus: Using the Law to Change ‘the Moral Character of Italians’</i>	147
	Alessandra Bassani and Ambra Cantoni	
	Introduction	147
	Economic Crimes	151
	Common Crimes	158
	Conclusion.....	162
8.	<i>The Judiciary and Political Power Under the Fascist Regime in Italy</i>	165
	Riccardo Cavallo	
	Judges and Fascism: An Open Question	165
	The Judiciary and Political Power in Liberal Italy: An Outline	168
	Aldo Oviglio’s Judicial Reform.....	170
	The Architect of Fascist Justice: Alfredo Rocco.....	172
	Dino Grandi’s Reform	174
	Authoritative Voices from the Palace of Justice.....	177
	In the Fascist Courtrooms.....	181
	Conclusion.....	184

9. <i>National Socialism and the Law in Norway Under German Occupation, 1940–1945</i>	187
Hans Petter Graver	
Introduction	187
Authoritarian ‘Rule of Law’	189
The Legal Ideology of the National Socialist Party.....	192
Statutory Measures of the Nazi Authorities	193
Consequences for the Judiciary	195
National Socialist Law in Action	197
The Measures Against the Jews	201
Conclusion.....	204
10. <i>The Repression of Lawyers After the Spanish Civil War: The Case of Valencia</i>	207
Pascual Marzal and Aniceto Masferrer	
Introduction	207
The Military Punishment of the Defeated: Trials Against Republican Lawyers	209
The Economic Repression	213
The Professional Purge.....	214
Conclusion.....	223
Appendices	226
11. <i>Yukitoki Takikawa (1891–1962) and Legal Autonomy in Interwar Japan</i>	229
Hiromi Sasamoto-Collins	
Criminal Law and Fascism: Unicity and the Decay of Legal Theory.....	229
The Takikawa Incident and the Attack on Dissent.....	234
Origins and Application of Takikawa’s Criminal Law Theory.....	240
Conclusion.....	252

PART III
DEVELOPMENT, EXPRESSION AND TENSIONS

12. <i>Punishing the ‘Veterans of Crime’: Recidivism in Fascist Italy’s Rocco Code of 1930</i>	257
Paul Garfinkel	
Introduction	257
Common Recidivism: Definitions and Discipline	260
Dangerous Recidivism: Classification and Confinement	266
Conclusion.....	274
13. <i>Anti-democratic Emotions: Crimes of Honour Before and Under the Fascist Regime</i>	277
Emilia Musumeci	
A Law Without Emotions?	277
Emotions Through the Eyes of Legal Scholars.....	279
Inside the Pre-unitarian Codes: The Dominance of ‘Irresistible Force’	281
During an Outburst of Anger or Intense Pain: The Zanardelli Code	283

The Indifference of Emotional and Passionate States: The Turning Point of the Rocco Code	284
Gendered Emotions.....	287
Reinventing Honour.....	295
Conclusion.....	296
14. <i>Criminal Law and the Use of Force: Ideology and State Power in Fascist Italy and England in the Interwar Period</i>	299
Stephen Skinner	
Introduction	299
Article 53 of the 1930 Penal Code	300
The Use of Force in English Law.....	311
State Power and the Use of Force in Interwar Italy and England	317
Conclusion.....	319
15. <i>The Restless National Security Acts: The Absence of Crimes Against National Security in the 1940 Brazilian Penal Code</i>	321
Diego Nunes and Ricardo Sontag	
Introduction	321
The Exclusion of Political Offences: Contested Reasons	323
Double Levels of Legality and Political Crimes (1930–36)	324
Double Levels of Legality and Political Crimes (1936–40)	332
Conclusion.....	342
16. <i>The Law of Blood: Totalitarianism, Criminal Law and the Body Politic of Second World War Romania</i>	345
Cosmin Cercel	
Introduction	345
A Legislation of Crisis: Law, State, History	347
From Authoritarianism to Totalitarianism: The ‘New’ Constitution.....	353
Protecting the Nation: Blood, Outlaws and the Body Politic	356
Dictatorial Law and Order: Nationalism, Subjection and Fascist Ideology.....	364
Conclusion.....	367
<i>Conclusion: Investigating Ideology and Criminal Law in Legal History</i>	369
Stephen Skinner	
<i>Index</i>	373