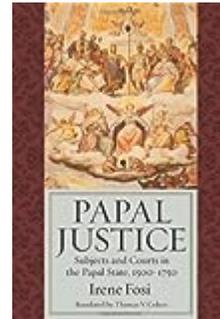




**Irene Fosi.** *Papal Justice: Subjects and Courts in the Papal State, 1500-1750.* Translated by Thomas V. Cohen. Washington, DC: Catholic University of America Press, 2011. 272 pp. \$29.95 (paper), ISBN 978-0-8132-1858-8.



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## The Black Legend of Papal Justice

*Papal Justice: Subjects and Courts in the Papal State* is an invaluable addition to the English-language scholarship on criminal justice in early modern Italy. Irene Fosi originally published this work in Italian in 2007, but has subsequently expanded the text and footnotes with a North American audience in mind. Both a survey of up-to-date Italian research and a showcase for the author's deep knowledge of the archives, this volume succeeds in introducing a broad audience to a new subject and offers satisfying new material for those familiar with the topic. This wide-ranging study, masterfully translated from the Italian by Thomas V. Cohen, is a satisfying and indispensable read for historians and for legal scholars interested in the intersection of law and good governance (*buon governo*, p. 2) in the pre-1800 period.

Taking the Papal State as her subject, Fosi examines the overlapping jurisdictions of the Roman courts in order to explore a wide range of subjects from the nature of noble power, the propagandist aims of the curia, and papal subjects' attitudes to the state. Fosi takes on the black legend of papal justice as an arbitrary and abu-

sive system, and helps the modern reader understand how justice in the Papal State was a draconian reaction to the fundamentally insecure nature of political authority during the early modern period.

Fosi focuses on the ways in which the Roman courts sought to extend papal control over its temporal territory, a region in central Italy bordered by the Kingdom of Naples in the south and reaching in the north just beyond the city of Bologna. The bulk of Fosi's analysis focuses on the late sixteenth and seventeenth centuries, a period of state centralization and religious orthodoxy. Courts at the heart of the papal enterprise, such as the governor's tribunal and the Roman Inquisition, were key tools in the pope's efforts to create a hegemonic state out of disparate regions with strong local traditions of governance. Like waves lapping on the shore, the efforts of the papal courts to undermine the traditional privileges of the nobility, to correct the religious doctrine of its subjects, and to bring the authority of local bishops under the control of Rome were gradual, uneven, and yet relentless. They were also often less than completely successful, and

Fosi endeavors to tease apart the aims of the government from the reality of judicial practice. Grounding her analysis in decades of intensive work in the Roman criminal archives, she shows how the rules of justice functioned while at the same time, she remains attentive to the negotiations between different courts and the frequency with which legal disputes were settled outside of the court system. Justice, for Fosi, was a fundamental component of early modern state-building not because it was always rational and systematic, but rather because it was sufficiently flexible to adapt to local conditions and mediate between competing power-brokers.

Fosi focuses considerable attention on the Roman Inquisition, created in 1542 to correct and discipline Catholics faced with the dangers of heresy, magic, and superstition. The Inquisition was granted judicial supremacy for spiritual crimes, but only gradually established a monopoly over trials for heretical behavior and over the church's harshest punishment, excommunication. Torture was a central means of obtaining confessions by the inquisitors, though Fosi points out that, as early as the late sixteenth century, the court advocated moderation in this method of questioning. Heresy was defined broadly to include polygamy, blasphemous statements, and the practice of superstitious healing practices, but it was more narrowly defined in the Papal State than in Spain, where most sexual crimes, including sodomy, were tried before the Inquisition. Instead, in the Papal State and other areas under the authority of the Roman Inquisition, sexual crimes were tried by the Inquisition only if the defendant expressed explicitly heretical statements, such as denying that the criminal acts were against God's teachings. Fosi shows that the Inquisition's search for blasphemy often inadvertently appeared ever more often into families' (p. 138). Here the judges sought to tread with caution, always aware that accusations of heresy could stem from long-standing family enmities. The picture Fosi paints is of a tribunal wary of taking quick action, concerned about the incompetence of its staff in the rural districts, but determined, despite demonstrable failure, to eradicate superstition from among its subjects.

Much of Fosi's recent research has focused on the changing balance of power between noble elites and the papal curia, and this material constitutes an important theme in the middle chapters of the book. During the long fourteenth century when the papacy was based in Avignon, traditional baronial families in central Italy became accustomed to acting as independent political and military agents in a system of masterless feudal lord-

ship' (p. 77). With the decisive return of the pope to Rome in the 1430s, curbing noble power in the city and in the countryside became an important priority as well as an elusive goal for over a century. Only in the late sixteenth century was the pope able to secure the borderlands, and the reestablishment of the judicial system was a key factor in accomplishing this goal. In contrast to other chapters, Fosi offers a detailed analysis of a handful of notorious cases, including those of Caetani and Savelli clans, whose habits of creating anarchy in the countryside by supporting banditry and feuding undermined the security of the region. Fosi shows how determined repression through the courts, often by appropriating noble lands and redistributing them to more docile branches of a family, eventually helped calm the borderlands of the Papal State. While the detailed explication of particular families' experiences stresses the degree to which control was achieved in a piecemeal fashion, at times, the broader narrative in this section was lost.

Throughout, Fosi balances her analysis of the state's aims with a full consideration of the motivations of the men and women who approached the courts seeking justice. In brief analyses of individual trials, Fosi gives voice to the sometimes lowly artisans and abused wives who sought to resolve real personal crises through the courts. She shows, for example, that women were most effective in the judicial system when writing letters of petition to defend the honor of their menfolk; women's initiation of complaints on their own behalf to redress sexual crimes within the family were rarely granted much credit. By acknowledging the expense and the social dangers of testifying against one's neighbors, Fosi effectively depicts the choices available to the common people, from arranging a settlement with a local notary, to bringing a complaint to a local court, to writing a letter of petition directly to the pope. She demonstrates that the relative success of the papal courts as a politically centralizing tool lay precisely in the relative confidence that papal subjects had in its efficacy in comparison with the justice dispensed at the local level.

Conversely, Fosi constantly evaluates whether these subjects were right to place their trust in papal justice. She cites numerous efforts of the papacy, particularly in the seventeenth century, to codify procedure, to reform its officials, to curb excess, and to make the clergy in particular act as a living example of God's law. In all these efforts, the curia met with only modest success: despite the papacy's repeated calls for a neutral bureaucratic system, throughout the early modern period trials were prolonged for the sake of the legal fees collected,

judges lined their pockets with bribes, and notaries paid scant attention to directives from Rome abounded.

Fosi's meticulous attention to her sources, both their limits and their possibilities, comes to the fore in the chapters where she turns her attention to the judicial petitions addressed to the pope or to members of his immediate family. Unwilling to see petitions primarily as literary texts, Fosi urges us to consider the pathways of power that were opened up between center and periphery through the mediation of these letters. Local villages, proud of their history and political traditions, often wrote to the pope to complain of corrupt papal officials and to urge their replacement with local men who could better maintain public order. Individuals also wrote directly to the pope to urge clemency in particular trials against family members, thereby leapfrogging over local courts whose impartiality they suspected. In their appeals for justice, these petitioners asserted their personal loyalty to the pope, and positioned themselves in alliance with the pope's aim to provide them with good governance. Fosi convincingly asserts that the subjects participated in the construction of the state and in the legitimization of authority (p. 223). Although the state was by no means monolithic in the early modern period, the rivers of ink (p. 207) that flowed between Rome and local communities implicitly reaffirmed the papal curia's authority over the entire territory.

Finally, Fosi's analysis of the ways in which the Pa-

pal State sought to represent its justice as rigorous reveals how it unwittingly helped to create its own black legend. Pamphlets published to advertise the success of the judicial system by emphasizing the clear and decisive judicial sentences issued by the courts often dwelled on the physical punishments, most notably execution, by which serious crime was punished (not only in the Papal State but across continental Europe). To subsequent Enlightenment-era readers, celebration of this violence was distasteful and abusive, an attitude that many modern readers also share.

*Papal Justice* is an effective call to the archives, an appeal to readers unfamiliar with the landscape of Italian justice and its rich historiography to dig into and learn from the wealth of materials available. Fosi peppers her narrative with primary sources that evoke the diversity of responses to papal justice and the wide range of sources available for studying its functioning. Most of these documents are Roman—that is to say, they were either generated by Roman courts or addressed to curial officials located there. Fosi freely admits that her geographic center is Rome itself; as a result, we are rarely offered more than a glimpse of local politics and concerns, an imbalance that can be addressed by future researchers. Precisely because it so effectively stimulates further investigation into criminal justice, *Papal Justice* should attract a wide readership and could be profitably assigned in either an upper-level undergraduate or graduate courses.

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