

*A Comparative History of Regime Change: Transitional Justice in
Post-War Italy and Post-Saddam Iraq*

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Introduction:

When U.S forces captured Saddam Hussein in December 2003, and the first images of the fallen Iraqi dictator were beamed around the world, it was difficult for the historian of the 20th century to avoid thinking of obvious and not-so-obvious analogies to the fall of authoritarian regimes in the preceding century. The same was true months later, when Saddam and the leading figures of his regime – including Ali Hassan al-Majid, the notorious ‘Chemical Ali’ – found themselves in hastily organized courtrooms answering to young and inexperienced Iraqi judges about various crimes committed during the long life of the Baathist regime. For years, pundits and politicians have been drawing comparisons between Saddam’s regime and Nazi Germany, often to the consternation or at least unease of professional historians. A cursory perusal of any major search engine combining the names ‘Hussein’ and ‘Hitler’ yields hundreds of hits; not surprising, of course, given the currency of the Hitler-Hussein analogy in public memory.

Now, as the world watches – sporadically, these days – the trials of the former Iraqi leaders by an Iraqi national court – the Iraqi Special Tribunal – echoes of the great

war crimes trials of the postwar era, notably at Nuremberg and Tokyo, are impossible to ignore. Popular understanding of how Germany and Japan faced defeat in war was defined largely by the unprecedented war crimes trials at Nuremberg and Tokyo. As John Dower notes, both Nuremberg and Tokyo ‘captured the imagination of a war-weary world.’ To this day, the Nuremberg and Tokyo trials are synonymous with the principles of justice and accountability that are presumed essential to peaceful democratic transitions. And while there were obvious and substantive differences in Allied occupation policies of the former Axis countries – Germany divided among the four major Allied powers; Japan unilaterally controlled by the Americans – both countries were subject to concerted campaigns of de-nazification, demilitarization and democratization. This was a fate the Italians were able to avoid by virtue of the fact that the agents of Mussolini’s demise and Italy’s liberation were in large measure domestic forces, albeit backed by Allied forces. Italy’s postwar reconstruction and its democratic transition, however, were to be largely an Italian affair.

Not surprisingly, the ongoing drama of Iraq’s democratic transition has sparked widespread public and academic interest in the dynamics of transitional societies. The evolving situation in Iraq dramatizes the challenges faced by societies emerging from decades of authoritarian rule, civil strife, and war. At the same time, Iraq offers a window onto the unique circumstances – be they tensions or opportunities – posed by foreign occupation. Arguably the most dramatic challenge of all is presented by the physical survival of Saddam, Chemical Ali and other Baathist leaders. As with other transitional societies, past and present, the key question remains: what is to be done with the leaders of an authoritarian regime? How are new and embryonic Iraqi institutions,

such as the American-generated Iraqi Special Tribunal, to see that the leaders of Saddam's regime are held accountable for crimes that are not yet fully documented, and may never be? How to ensure that the investigation of crimes is fair and accurate? How should transitional authorities reconcile principles of fairness and impartiality of trials, with the obvious guilt of the accused, when the organs of the country's judiciary are virtually non-existent? As one commentator noted recently, Iraqi judges are simply ill equipped to carry out the immense task before them. They are receiving hastily arranged training in the form of weeklong seminars abroad, taught mainly by westerners, and they are vulnerable to political and social pressures that surround them at home. It is a telling fact that the longest trial ever held in the 30-plus years of Saddam's rule lasted a couple of days. What hope is there, then, for a legal process with legitimacy in the eyes of Iraqis and the international community?¹

What we are witnessing in Iraq today offers us an opportunity to place democratic transitions in a historical and comparative framework. The study of the past is something more than mere curiosity; on the contrary, we turn to the past because we believe that, at the very least, the past has something to teach us in the present, and can provide insights that are useful for a future course of action.² What, then, does postwar Europe's experience in dealing with legacies of violence suggest about how Iraq may deal with its authoritarian past? How have different social and political groups in former Axis countries contested the memory of the Second World War? How does this contestation both reflect and influence the power dynamics of transitional societies?

What emerges from an analysis of how the Second World War is remembered and commemorated in former Axis countries is a clear albeit variable pattern of legal activism

against the former regime, combined with political amnesty for the thousands of functionaries left wearing the regime's label after the leadership was gone, and a selective remembering of the past that often has the appearance of collective amnesia. If there is a common thread linking the various patterns of public and private remembering in postwar Italy and Germany, it is this: the declared imperative to hasten the country's democratic transition and consolidation entailed coming to terms with the recent past in ways that disassociated national identity from Hitler and Mussolini respectively. A measure of accountability in the form of trials and perhaps reparations was present, to be sure. But never far behind public expressions of *mea culpa* for the legacy of Nazism or Fascism were positive evaluations of the country's national identity that allowed the crimes of the former regimes to appear as aberrations, or what Benedetto Croce famously described as a 'parenthesis' in history. The question remains: were these patterns of public and private remembrance of the Second World War indispensable to peaceful democratic transitions? Without some measure of selective remembering and wilful forgetting, can societies overcome legacies of hatred and violence?³

Mussolini's Ghost: Dealing with Italy's Duce

Even in death, Benito Mussolini exerts a unique influence on the Italian imagination and in politics, galvanizing the public interest as few historical figures can. But this was also true of Mussolini in life. In the midst of armed struggle against Fascism-Nazism, the leaders of the Resistance (the Committee for National Liberation or CLN, based in Rome; and the CLNAI, or National Committee for the Liberation of Upper Italy, based in Milan)⁴ understood the enormous symbolic weight Mussolini

carried in the eyes of the Italian people, and indeed world opinion. Resistance leaders believed many ordinary Italians continued to identify with, and perhaps felt a certain degree of sympathy for their fallen Duce. The Resistance, after all, was a relatively limited phenomenon. As H. Stuart Hughes acknowledged, the Italian Resistance was “the work of a minority – the work of a large minority, but still in no sense the achievement of the whole of the Italian people.”⁵

Interestingly, during the Resistance itself, no one seemed very interested in propagating the myth of Italy as a ‘nation of resisters’ as Charles de Gaulle did in France (save, perhaps for anti-Fascist exiles abroad, such as Carlo Sforza, Mussolini’s former Foreign Minister). This myth emerged a few years later, during the postwar transition to a democratic republic.⁶ During the war itself, the Resistance in Italy constituted a moment of collective soul-searching, and as such provides an interesting study of ‘memory in action’ as Italians struggled to come to terms with the past. How and why did Fascism come to power? Why and how did it survive for so long? How were the mistakes of the past to be avoided in the future?

Few during the Resistance placed all the blame for Fascism on the Italian people as a whole. Fewer still were willing to dismiss Fascism as a mere blip, as the fault of one man – Mussolini. If one of the objectives of the Resistance was to mobilize ordinary citizens, it was to be done by settling scores with the past.⁷ As a result of these beliefs, the antifascist leadership perceived the need to mobilize Italians, but also to inculcate in them genuine democratic values.⁸

This apparent moment of collective soul-searching was happening while the war against Nazism-Fascism was still underway, and while Mussolini continued to rule as

ostensible leader of the Italian Social Republic. As the war neared its end, however, and the antifascist leaders began to plan for the post-Fascist reality, one can discern a subtle shift away from speaking of collective responsibility for Fascism, in favour of a more focused attention on the person of Mussolini himself, and to a lesser degree on his Fascist henchmen.

Once again, it fell to the political leaders of the antifascist parties to link the defeat of Fascism and Italy's political rebirth to sharp disassociation with the person of Benito Mussolini, the man and the myth. Disassociating with Mussolini the man entailed, simply enough, his removal from the political scene altogether; that is, Mussolini's arrest and summary execution.⁹ The *Duce* himself seemed to believe that Resistance leaders could be persuaded to negotiate an agreement to spare him from death, and from what he perceived as an even worse fate: a public trial by the Allied powers.¹⁰ But Mussolini's attempts to broker some sort of compromise between Fascist leaders and the antifascist parties fell on deaf ears.¹¹ If anything, the closer the Resistance came to defeating Nazism-Fascism in central and northern Italy in the spring of 1945, the less likely it was that Mussolini could escape the arm of retributive justice. There was more than retribution at stake; there was also the declared need to break decisively with the Fascist past, to lay the foundations for the political, economic and moral reconstruction of Italy after two decades of dictatorship. In short, the men who led the Resistance against Nazism-Fascism and who were destined to lead Italy through reconstruction understood that post-Fascist Italy would need in some way to define itself *against* the very image of Mussolini and of Fascism itself. Mussolini's Fascist regime would give way to Italy, the

anti-Fascist nation; and Mussolini *Il Duce* would give way to Mussolini as a kind of anti-hero; a tragic-comic, pathetic figure rather than national savior.

In other words, it was both a pragmatic and symbolic imperative that account for Mussolini's summary execution by the partisans in April 1945, without a trial and in technical violation of the 1943 Armistice. Sergio Luzzatto suggests that the pragmatic imperative – to remove the very symbol of Fascism in the midst of civil war – took precedence over the finer points of international treaties. Both Fascists and resisters, he says, understood that they were engaged in a life-and-death struggle.¹² A year later, a similar pragmatic and symbolic imperative also motivated the Communist leader Togliatti, acting as Justice Minister, to grant a blanket amnesty – excluding prominent Fascists – for the political crimes of Fascism. That this gesture was offered in June 1946 to mark the birth of the post-Fascist republic, and that it should come at the behest of a Communist politician and leading anti-Fascist, is a telling indication of how quickly the memory of Italy's Fascist past was to be obscured or remembered selectively; this as a strategy to preserve the unity of the fragile anti-Fascist coalition, and in the haste to get Italy back on its feet as quickly as possible.¹³

In the final days of the war, there was little inclination for mercy on either side of the fight, but where the Fascists worried about mere survival, the Resistance worried about survival and beyond. Many of the prominent Resistance leaders made it clear that for pragmatic and symbolic reasons, Mussolini should be removed from the scene, for good. Leo Valiani of the Action Party, for example, wrote in his paper that all the Fascist leadership had to be dealt with so that they could do no more harm. The highly influential Communist Luigi Longo (rumoured to be the brains behind Mussolini's

summary execution) argued that Mussolini was “to be bumped off immediately...without a trial, without theatrics, without any historic declarations.” Perhaps the harshest perspective of all was that of socialist leader and future Italian President Sandro Pertini. In the year or so before the Liberation, Pertini was the most adamant in opposing any talk of a negotiated compromise to spare Mussolini. As the war neared an end and Mussolini’s fate was at hand, Pertini urged the partisans to kill the Duce “come un cane tignoso,” which can be loosely translated to mean “like a sick dog.”¹⁴ Mussolini had spent most of his adult life creating a cult of personality around his person that verged on the individual and collective worship of his very physique (one thinks, for example, of the many posters, photographs, and chiseled busts depicting *Il Duce*’s so-called “roman” features and his bare chest).¹⁵ For the anti-Fascist Resistance, if the image of *Il Duce* as a national superhero had helped to ‘sacralize’ Fascist politics, then the image of *Il Duce* as a sick dog, as something subhuman, could serve the opposite purpose: the de-sacralization of Fascism in Italian life.¹⁶ This was vengeance, to be sure, but with a political purpose.

Virtually no one it seemed among the leading antifascists, was in much of a mood at the time to speak of “perdono” or forgiveness as a “supreme virtue” of the new Italy the Resistance hoped to build.¹⁷ Understandably, with the war not yet over, Resistance leaders worried that premature talk of forgiveness or conciliation would lend some legitimacy to the Nazi-Fascist cause.¹⁸ There were a few voices calling for mercy and restraint vis-à-vis Fascist officials and soldiers, principally from elements of the Catholic Church as well as leaders on the centre or right wing of the antifascist spectrum.

Justice rather than saintliness was surely on the mind of the socialist leader Pietro Nenni who found himself in the ironic position of editing *Avanti!*, the very newspaper at which Mussolini made a name for himself as editor and influential national figure before the First World War. Writing in the paper at the end of April 1945, hours before Mussolini's execution, Nenni described the socialist-cum-Fascist duce as a "straccio umano," a human rag, who should be shot immediately before the Allies had the chance to put him on trial. Nenni regretted, though, that Italians would not have the chance to "drag this rag through the town squares of Italy, like a caged beast, as an eternal mockery of the cult of *Il Duce*."¹⁹ In the face of such anger, vengeance and determination to see Fascism defeated definitively, and considering the tendency to dehumanize the Duce, it was clear that Mussolini's fate was sealed.

The details surrounding Mussolini's last hours and his execution in particular continue to inspire interest, speculation and rumour.²⁰ The accepted version of Mussolini's execution was filtered through the lens of the Italian Communist Party, and in particular through Walter Audisio (Valerio). Audisio's version is given full treatment in his memoirs, *In nome del popolo italiano*. Loosely translated, the title means *On behalf of the Italian people*, an apt description of the central thesis of the official version of Mussolini's final hours; namely, that Mussolini's execution, though the literal responsibility of one man alone, was carried out on behalf of the Italian people, as an expression of collective will.²¹

In Audisio's version of the past, the once proud, hypermasculine and violent Duce who wanted to live like a lion rather than a lamb – and have his country do the same – ended life as "un povero cencio tremolante," a trembling rag. The Duce who lived like a

lion but died like a lamb could therefore serve as a metaphor for Fascism itself and for the Mussolini regime. The memory of a humiliated, emasculated, dehumanized Mussolini could thus serve as a symbolic foil to the moral heroism and political idealism of the Resistance and of anti-Fascism in general. To have executed Mussolini served the immediate practical task of removing the symbolic and titular head of Fascism while the war raged on in the spring of 1945. But then to tell the story *after* the fact of an emasculated Mussolini who died a coward's death belongs to the realm of national myth-making: to legitimate the moral and political claims of anti-Fascism on Italian national identity after Mussolini by de-legitimizing Mussolini himself and discrediting Fascist ideology altogether.²²

The various parties of the Committee for National Liberation, be they revolutionary or moderate, generally agreed that Mussolini and the other Fascist leaders had to die, to serve as sacrificial lambs.²³ Voices in some quarters, the Vatican for instance, lamented the absence of a formal trial and decried the public humiliation and mutilation of Mussolini's corpse; other voices staunchly defended the decision to execute summarily Mussolini.²⁴ The anti-Fascist exile Carlo Sforza, one-time member of Mussolini's cabinet, who went on to become an influential Foreign Minister under the postwar governments of Alcide De Gasperi, lauded Mussolini's execution as "the most legitimate and fairest act performed by Italians" in those years. Woe to Italy, he said, if Mussolini had been given a soapbox in the form of a public trial, from which to "accuse and defame Italy." Consequently, Sforza reasoned, "no other execution had been as necessary" as that carried out on Mussolini at Dongo in late April 1945.²⁵ An editorial in the *New York Times* expressed a similar sentiment, arguing that "by the final manner in

which [Italians] have dealt with their former dictator, they have spared the Allies a problem.”²⁶

Within days of Mussolini’s execution, the Communists spoke of Mussolini’s summary execution as an expression of “Jacobin justice.”²⁷ The Socialists greeted the news of their former editor’s demise with yet another invocation of justice served. In the pages of *Avanti!*, one reads an admission that scene at Piazzale Loreto was gruesome but that, all in all, it was necessary. “The people were compelled to render justice on their own tyrant,” the paper declared, “to free themselves from the nightmare of an irreparable offense.”²⁸

To remember Mussolini’s execution as an act of the Italian people rather than one man or one political party is to give birth to a founding myth of post-Fascist Italy: the myth of Italy as a nation of anti-Fascists. Although the hard work of the Resistance to Nazism-Fascism was done by a small minority of Italians, the values that inspired the anti-Fascist Resistance were extended to the whole of the Italian people, whatever their actual role in the fight against Mussolini and his allies.²⁹ To remember Mussolini’s execution as an act of the Italian people was also to provide a symbolic point of reference and of unity in the face of national disunity, popular disaffection and ideological bickering within the ruling class, and society at large; this at a delicate time in Italy’s democratic transition and economic reconstruction. That the men who actually carried out the execution were Communists also served to give Italian Communism a moral and political voice in postwar reconstruction, and in the more elementary re-definition of Italian society after two decades of Fascist dictatorship. In the place of Mussolini’s “cult

of personality,” one can discern the start of what Renzo De Felice was later to call an “official culture of anti-Fascism.”

Sins of Omission? Between Legal Activism and Collective Amnesia

After 1945, as Italians sought to rebuild the country after decades of Fascist rule and a ruinous war, the question of how to reconcile the destructive legacy of Nazi occupation and partisan warfare with the needs of a transitional society was met with an uneasy combination of legal activism – that is, the prosecution of Nazi and Fascist war criminals – along with a sweeping political amnesty and an even broader form of collective amnesia. The collective amnesia was institutionalized, in a sense, by the Italian government’s refusal – backed by the Allies – to agree to a thorough investigation and prosecution of war crimes committed by Italians in formerly occupied areas, namely the Balkans, Greece and Africa. While this approach worked in the short-term to accelerate Italy’s democratic transition, it also meant that Italians did not fully confront their Fascist past. Nor was the divisive legacy of partisan and anti-partisan warfare fully acknowledged. Some would argue that, in the long run, this has been to the detriment to the historical record, to public memory of the war, and to the overall political health of Italy’s democratic Republic. The esteemed Italian historian Claudio Pavone asked recently, “Have the Italians truly known how to come to terms with their fascist past?”³⁰ More to the point have Italians been able or even willing to come to terms with the events of the Second World War and the conduct of some of the Italian military in occupied territories, as the so-called “junior partner” of the Nazis?

There is something of a consensus emerging among many scholars and other commentators to suggest that the simple answer to those questions is, No. Not only have Italians not confronted fully their fascist past, the argument goes, but they – politicians, intellectuals, the general public – have cultivated, promoted and internalized the myth of the Italians as *brava gente*, or what Pavone describes as the myth of the “inherent goodness of the Italians.”³¹ Other commentators speak of the ‘bad German-good Italian’ trope as a evidence of the very same attitude which served both legal-political purposes during Italy’s democratic transition, but also set the terms of reference for much of the scholarship on Italian Fascism after 1945.³² Ruth Ben-Ghiat refers to an “exculpatory legal and ideological” process after 1945 which had both immediate consequences for the dynamics of Italy’s postwar transition, and in shaping scholarly understandings of the nature of Italian Fascism, especially in comparison to Nazi Germany.³³ When it came to the dynamics of democratic transition, for instance, the ‘bad German-good Italian’ myth perpetuated both a kind of ‘blame game’ and a rhetoric of victimization. On the one hand, Mussolini’s dictatorship could be seen to have been essentially benign relative to the racialist and genocidal nature of German Nazism; even Italian complicity with such Nazi-inspired policies as the racial laws and the deportation of Jews to concentration camps minimized Italian responsibility by arguing that anti-Semitism and racialist thinking were German imports of the late interwar period.³⁴ This has contributed to the notable tendency in historiography and in general perceptions of Italian Fascism as a “lesser evil” than Nazism. According to Ruth Ben-Ghiat, this tendency to speak of Italian Fascism as an “imperfect totalitarianism”³⁵ has actually impeded a full and proper historical assessment of the true nature of Mussolini’s dictatorship. Instead, she writes,

“it has until very recently fostered a witting or unwitting underestimation of fascist violence committed both within and outside Italy, and has perpetuated historiographical traditions and popular credos that minimize Italians’ agency and their responsibility for such violence.”³⁶

At the same time, while plans were made at war’s end for public trials of prominent Nazi leaders responsible for war crimes in Italy, the Italian authorities were reticent about attempts to investigate and prosecute the hundreds of Italian military and civilian authorities accused of war crimes and crimes against humanity in the Balkans, Greece and Africa.³⁷ In fact, in part to spare the Italians the embarrassment of a very public airing of Fascism’s imperialist, racist and murderous occupation practices, the Allied authorities decided to shelve the planned ‘Italian Nuremberg,’ that is, a major trial of the entire Nazi ‘machinery of reprisals’ which operated in Italy between 1943 and 1945, and was responsible for killing upwards of 100,000 Italians, mainly civilians. In the end, as Michele Battini has demonstrated, the Allies, the British in particular, renounced the idea altogether, largely in acquiescence to the pressing political objectives of Italy’s postwar transition. Predominant among these objectives was the declared need to avoid inflaming the revolutionary impulse evident among segments of the population, which manifest itself in early electoral successes for Italy’s socialist and communist parties. In the end, a handful of high-ranking Nazi officers were put on trial for crimes committed during the Nazi occupation of Italy – including Kesselring, Kappler and others – while literally hundreds of other cases of alleged war crimes, committed by Germans and Italians, were “buried for decades in a closet.” Battini considers this a “most Italian solution that favoured the normalization of relations between the Italian Republic and the

Federal Republic of Germany and in compensation allowed the persecution of the Italian war criminals guilty of the massacres in Albania, Yugoslavia and Greece to be forgotten.”³⁸

But is it the case, as the truism would have it, that the absence of a full and thorough legal investigation and prosecution of these various crimes actually produced the so-called ‘grave consequences’ scholars and jurists often speak of, either in juridical or historical terms? Michele Battini, for one, is convinced that the absence of an Italian Nuremberg, for instance, and the concomitant absence of procedures to investigate and prosecute Italian war criminals had the twin effect of limiting the “juridical horizon” of international law after 1945, while at the same time contributing indirectly to a “deformation of historical memory that was founded on the separation of Germany’s responsibilities from those of other European nations.” In the process, “the faults of the allied armies and the responsibilities of the European ruling class” for its role in Nazism-Fascism in the first place, all these, says Battini, were too easily forgotten.³⁹

For his part, Claudio Pavone reasons that the absence of a full and thorough documentation of both Nazi and Fascist occupation practices has contributed to an ‘impoverished’ understanding of fascism itself, and of the complexity of Italian attitudes and actions in the interwar era and during the Second World War. A selective memory of the Italians as *brava gente*, the argument goes, has actually slowed and even warped the development of the country’s so-called “civil conscience,” an indispensable element of any democratic polity. Might the ‘missing Italian Nuremberg’ or the *epurazione mancata*, or the myth of *brava gente* actually constitute distinct but related dimensions of Italy’s troubled postwar Republic?⁴⁰

Contemporary work in the area of international criminal law can help illuminate our understanding of the historical record, as well as offer suggestions about the future of democratization in Iraq. Useful in this regard is the work of Antonio Cassese, former President of the International Criminal Court (hereafter ICC), an individual with hands-on experience prosecuting war crimes in the former Yugoslavia. Cassese argues that one way, that is, the best way, to deal with the leaders of authoritarian regimes or instances of systematic mass violence is to use international tribunals, inspired by the models used at Nuremberg and Tokyo after 1945.

Cassese sees three principal advantages to this approach. First, he argues that international courts can safeguard the legal principles of “impartial justice” as the basic prerequisite for a legitimate guilty verdict to be reached. Second, trials under international auspices can serve as a form of “democratic pedagogy” – that is, they can help to document and publicize the crimes committed by the former regime or accused war criminals, while at the same time demonstrating that justice has been served.

Finally, Cassese argues that international trials can serve the purpose of historical documentation and interpretation by providing a rich, detailed “inventory of crimes” from which history and memory can draw. It is clear from the Italian case, for example, that the legal and political rationale for closing the door on the investigation and prosecution of war crimes, or for issuing an amnesty that ended the purge of Italian administration/institutions of fascist elements – the political rationale of these decisions may have served the objective of hastening Italy’s postwar transition. This approach likely did succeed in avoiding the radicalization of popular sentiment, in particular the revolutionary impulse of certain segments of the population. But it is also clear that both

the historical record and collective memory of fascism and of war were the poorer for it. With thousands of investigative dossiers closed and locked away in military or state archives for decades, it has not been possible for historians to document fully – certainly not to the extent that this has been done for Nazi Germany – the way Mussolini’s regime actually worked, or the nature and extent of Italian occupation policies. Without full and unfettered access to both military or civilian archives, it is not possible for historians to provide detailed analyses of what the Italian historian Enzo Collotti describes as “the concrete institutions through which fascism oppressed and repressed national minorities, racial minorities [and] political adversaries.”⁴¹ And without such detailed historical assessments, it continues to be difficult for historians to understand the true nature of Italian Fascism or to reflect more deeply on its ‘totalitarian’ quality, especially by way of comparison with its German counterpart.

These omissions in the documentary record and in historical interpretation, in turn contribute to “gaps” in Italian collective memory. As Ben-Ghiat notes, “Italian atrocities committed in their Balkan and colonial territories, the more than fifty concentration camps throughout Italy that held Jews and foreigners during World War Two, the forced labour of Italian Jews in the cities and countryside – none of these events have much resonance at the level of individual recollection.”⁴² These gaps may not matter much to the day-to-day lived experiences of most Italians, and it is arguable that such gaps really do constitute a deformed or immature “civil conscience” that, in turn, harms the health of Italy’s democratic polity. That said, it might very well be that these gaps in public memory influence debates over national identity and public policy – further research is needed to test this, in any event. The historian Ernesto Galli della Loggia is convinced

that these gaps do, indeed, matter; they contribute, he says, to the “singular schizophrenia” of Italian public opinion which reflects the ‘bad German-good Italian’ dichotomy discussed above.⁴³

Yet the Italians are not alone in this kind of schizophrenic handling of the legacy of Fascism and the Second World War. It is tempting to presume that public memory of the Second World War is far more advanced and self-aware in the other former Axis countries. Both Germany and Japan, it may be argued, have had to confront the legacy of the war and questions of collective guilt or responsibility (which are not the same thing) by virtue of their total defeat in war and subsequent occupation by the Allied powers for many years. Popular understanding of how Germany and Japan faced defeat in war was defined largely by the unprecedented war crimes trials at Nuremberg and Tokyo. As John Dower notes, both Nuremberg and Tokyo “captured the imagination of a war-weary world.”⁴⁴ To this day, the Nuremberg and Tokyo trials are synonymous with the principles of justice and accountability that are presumed essential to peaceful democratic transitions. And while there were obvious and substantive differences in Allied occupation policies of the former Axis countries – Germany divided among the four major Allied powers; Japan unilaterally controlled by the Americans – both countries were subject to concerted campaigns of denazification, demilitarization and democratization. This was a fate the Italians were able to avoid by virtue of the fact that the agents of Mussolini’s demise and Italy’s liberation were in large measure domestic forces, albeit backed by Allied forces. Italy’s postwar reconstruction and its democratic transition, however, were to be largely an Italian affair.⁴⁵

Lessons from the Past? Perspectives on Iraq's Democratic Transition

Students of democratic transition have long agreed that transitional societies (and for the authorities/groups helping to coordinate the transition) need to strike a balance between fundamental objectives. On the one hand, there is a clear moral imperative to acknowledge and to the extent possible offer redress for political, social or economic rights damaged or destroyed by authoritarian systems. At the same time, transitional authorities must be careful to avoid fanning the flames of further division or destabilize an already vulnerable situation through radical “purging measures” that would implicate a vast proportion of the population.⁴⁶

Along with many other enormous challenges, Iraq today faces just such a situation as, say, Italy, Germany and Japan did after 1945, albeit with the benefit of developments in international law, which accrued from trials at Nuremberg and Tokyo after the Second World War. To borrow again from Michele Battini, “what does one do with leaders of a totalitarian regime?”⁴⁷

Students of democratic transition have provided useful benchmarks to help us in a comparative study of how emerging democracies deal with the previous regime and legacies of violence, repression and civil strife. Writing on Italy after Fascism, Giuseppe Di Palma notes three “discernible distinctions” as guideposts in a comparative study of what he calls “successor democracies.” These distinctions can help us to determine which lessons from the past are most germane, if at all. First, it is important to consider the nature of the authoritarian regime, and distinguish between ‘authoritarianism’ and ‘totalitarianism’. Second, one must consider the way in which the former regime collapsed. For example, did it collapse by virtue of a domestic coup d'état or revolution?

Was the collapse gradual, the product of slow but inexorable changes over time? Did the former regime collapse by virtue of defeat in war, as was the case with Germany and Japan in 1945? Third, there is the matter of *who* guides or perhaps even imposes and oversees the democratic transition. Are these “agents” domestic political and social groups, or is democratization steered by foreign elements, as in a foreign occupation force? (In Italy, for example, it was a combination of both – Italian anti-Fascist leaders and partisans, together with Allied Military Government).⁴⁸

In particular, let us consider the first and second distinctions – the nature of the previous regime, whether authoritarian or totalitarian; and the nature of its collapse. For one, while scholars continue to argue over the true nature of Fascism in Italy, for some time now the consensus has been that Italian Fascism was an “imperfect totalitarianism,” certainly when compared to Nazi Germany.⁴⁹ As to Saddam’s Iraq, the penchant to want to label the Baathist regime ‘totalitarian’, while understandable, is also premature and likely inaccurate. While the coming months and years will yield the documentary evidence necessary for juridical purposes, as well as for a full historical assessment of Saddam’s regime, there is good reason to assume that the Baathist regime will be considered, like Italy, something less than ‘totalitarian’, but something more than ‘authoritarian.’ As with Italy, the ambiguous and contradictory nature of Saddam’s Baathist regime may muddy the dynamics of democratic transition, making the question of the Baathist legacy and how to deal with it a particularly contentious one – whether to purge previous institutions and to what extent; whether to prosecute or dismiss, say, civil servants or judges; how to determine what level of ‘guilt’ for former members of the Baathist party or minor officials of various branches of government? Di Palma and

others have noted that the ambiguous nature of Italian Fascism made Italy's democratic transition "the most contentious" of the postwar era. The same may be true of post-Saddam Iraq, with potentially serious consequences both for the prospects of democratization, and for the entire region.⁵⁰

As to the question of regime collapse, it is true that there are notable similarities between Italy and Iraq, with equally notable differences. Still, there is a basic pattern of ambiguity worth considering: both Mussolini's Italy and Saddam's Iraq were toppled ostensibly by foreign invasion and defeat in war, but regime collapse was neither automatic nor entirely complete. After 1943, Mussolini found himself as head of a puppet-government leading Fascist loyalists to fight alongside Nazi occupiers against both Italian partisans and Allied troops. In short, the collapse of Fascism in Italy did not spell total defeat and the start of democratization; rather, it meant two years (and more) of civil war.⁵¹ In Iraq, while the U.S. invasion succeeded in toppling the Baathist regime with remarkable speed and ease – evidence of how little popular support Saddam actually enjoyed among his people, and of how effective international sanctions were in containing and weakening Saddam's military capabilities. That said, it is also true that for many months, the Iraq dictator eluded captivity, inspiring dogged resistance movements in parts of the country, notably the Sunni triangle. Even with Saddam's capture and the start of his trial, the so-called 'insurgency' continues. While there is great progress on the ground in facilitating the democratic transition, it is also the case that parts of the country remain unstable and inhospitable to U.S. or Iraqi forces. To be sure, there is evidence to suggest that the progress that has been made is real, if necessarily tentative, and there is every reason to believe that the country is firmly on the path to a

stable democratic transition and consolidation. That said, like Italy after the fall of Mussolini, there are many more questions than answers in Iraq today; there is great ambiguity and uncertainty, and it is not at all clear how Iraq, helped along by the international community, will handle the so-called “twin problem” of “authoritarian legacy” and “democratic reconstruction.”⁵²

¹ For a first-hand account of the legal process in Iraq, see William Langewiesche, “The Accuser,” in *The Atlantic Monthly* (March 2005), pp. 54-81.

² The premise that the past is alive in the present is at the heart of Jonathan Glover’s *Humanity: A Moral History of the Twentieth Century* (New Haven and London: Yale University Press, 1999), see especially the Epilogue. Glover’s approach has informed much of my thinking, and is a useful model for linking past and present.

³ There is an immense literature on transitional societies and the role that history and memory play in the dynamics of reconstruction and reconciliation. For a survey of some of the better-known sources, see Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston, 1998), dealing mainly with more recent cases such as Africa, South America, Central-Eastern Europe. See also Priscilla B. Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (London, 2001); A. Barahona De Brito, C. Gonzalez-Enriquez and P. Aguilar, eds., *The Politics of Memory: transitional justice in democratizing societies* (Oxford, 2001); A. Jokic, ed., *War Crimes and Collective Wrongdoing: A Reader* (2001).

⁴ In 1944, the central committee of the CLN in Rome granted sweeping powers to its Milan Committee which, according to Paul Ginsborg, “became the supreme organ of the Resistance,” and took the name National Committee for the Liberation of Upper Italy (CLNAI). See Ginsborg’s *A History of Contemporary Italy: Society and Politics, 1943-1988* (London: Penguin Books, 1990), p. 16.

⁵ H. Stuart Hughes, *The United States and Italy* (Cambridge, Mass., 1979), p. 135.

⁶ See my *From Fascism to Democracy: Culture and Politics in the Italian Election of 1948* (Toronto: University of Toronto Press, 2004).

⁷ On the question of popular consensus under Fascism and the debate over when and why support for the Duce evaporated among ordinary Italians, see Pietro Scoppola, *La Repubblica dei partiti*, pp. 84-5. Utterly indispensable to this debate, however controversial it may be, is Renzo De Felice’s mammoth biography of Mussolini, especially his *Mussolini l’alleato*, 2 volumes (Turin, 1990), and more recently his *Rosso e Nero*, ed., Pasquale Chessa (Milan, 1995).

⁸ From “Libertà cosciente,” in *La Punta*, 2 February 1944, quoted by Claudio Pavone, *Una guerra civile*, pp. 564-65. It is interesting to note that while this call for the political education of Italians was pronounced among British policymakers, American policymakers were more magnanimous vis-à-vis the Italians. For the most part, U.S. officials distinguished between the Italian people and the Fascist regime. There were many reasons for this difference in attitude, including the influence of the large and prominent Italian American community in the U.S., as well as the influence in Washington of high-profile antifascist exiles such as the historian Gaetano Salvemini and Mussolini’s former Foreign Minister Carlo Sforza who fled to the U.S. in opposition to Mussolini’s regime in July 1940. Sforza in particular was critical in convincing U.S. policymakers that the Italians were at heart a democratic, peace-loving people. Men like Sforza persuasively sold the line that Fascism represented a betrayal of the “real” Italy and of Italy’s traditional alliances and orientation. On this, see James Miller, “Carlo Sforza e l’evoluzione della politica americana verso l’Italia, 1940-1943,” *Storia contemporanea* (December, 1976), pp. 825-53. See also J.P. Diggins, *Mussolini and Fascism: The View from America* (Princeton, N.J., 1972).

⁹ If the Armistice of September 1943 is any indication, the Allies envisioned a different fate for the former dictator. The agreement signed by the government of Marshal Pietro Badoglio with the Allies, which ostensibly took Italy out of the war, contained an oft-forgotten clause that obliged the Italians to ensure that

Fascist officials were captured alive and turned over to the Allies for criminal trials. On the terms of the armistice, see Elena Aga-Rossi's *Una nazione allo sbando. L'armistizio italiano del settembre 1943* (Bologna, 1993), here at p. 79. The full text of the armistice can be found in Aga-Rossi's *L'inganno reciproco. L'armistizio tra l'Italia e gli angloamericani del settembre 1943* (Roma, 1993).

¹⁰ In a series of articles Mussolini wrote and published under the title *Giramondo* during the last year or so of his life, he asked to be spared "la farsa di un assordante processo a Madison Square di Nuova York," and he said he was proud to be living through "il quinto terribile atto" of the national drama in person. See his writings, collected and published under the title *Storia di un anno (Il tempo del bastone e della carota)*. A reliable English translation is *The fall of Mussolini: his own story*, translated by Frances Frenaye, edited and with preface by Max Ascoli (Westport, Conn., 1975, c. 1948).

¹¹ Luzzatto, *Il corpo del duce*, p. 41. See also L. Canfora, *La sentenza. Concetto Marchesi e Giovanni Gentile* (Palermo, 1985). A highly symbolic gesture in this regard was the assassination of prominent Fascist leader Giovanni Gentile in Florence on April 15, 1944, or the order given by the CLNAI to execute supporters of the Italian Social Republic as traitors. These and other such gestures can be seen as bold and unequivocal responses to Fascist delusions of a negotiated settlement to spare Mussolini's life

¹² Luzzatto, p. 42.

¹³ On the amnesty and the abortive "purge" of Fascist officials, see Giorgio Bocca's biography *Palmiro Togliatti* (Milan: Mondadori, 1991), pp. 416-420. See also Roy Palmer Domenico's *Italian Fascists on trial, 1943-1948* (Chapel Hill: University of North Carolina, 1991). Even during the war, the Allies understood that prosecuting Fascism in Italy would be a difficult task. On one level, there was the question of how to define war guilt and how to verify accusations made against individuals. On an equally pragmatic level, how to purge Italian (and German) society of fascism without "destroying the whole structure" of Italian and German society. See "Guilt of Italians Complex Problem," *New York Times*, November 5, 1943.

¹⁴ Luzzatto, p. 42. Valiani's original article is in "L'ora del popolo," in *L'Italia libera* (Milan edition), 26 April, 1945. Longo was quoted in Pesce, *Quando cessarono gli spari*, p. 129. Pertini's views have been described in G. Artieri's *Le guerre dimenticate di Mussolini. Etiopia e Spagna* (Milan, 1995), p. 283. On Pertini's general hardline approach to dealing with the Italian Social Republic, see Paolo Spriano's *Storia del partito comunista italiano*, vol. V: *La Resistenza, Togliatti e il partito nuovo* (Turin, 1975), p. 446.

¹⁵ For a fascinating reflection on the role of Mussolini's physique in the cult of personality, and in Italian Fascism as a whole, see Mario Isnenghi, "Il corpo del Duce," in S. Bertelli and C. Grottanelli, eds., *Gli occhi Alessandro. Potere sovrano e sacralità del corpo da Alessandro Magno a Ceausecu* (Florence, 1990); Luisa Passerini, *Mussolini immaginario. Storia di una biografia, 1915-1939* (Bari-Rome, 1991), Sergio Luzzatto, *Il corpo del duce*; A. Lepre, *Mussolini l'Italiano. Il Duce nel mito e nella realtà* (Milan, 1995); A. M. Imbriani, *Gli italiani e il Duce. Il mito e l'immagine di Mussolini negli ultimi anni del fascismo (1938-1943)* (Naples, 1992).

¹⁶ For this notion of the "sacralization" of politics in Fascist Italy (and in Nazi Germany for that matter), see Emilio Gentile, *The Sacralization of Politics in Fascist Italy* (Cambridge, 1996), and George Mosse, *Nationalization of the Masses*. For the notion that Mussolini's execution and the subsequent mutilation of his corpse amounted to a "desacralization," see Mario Isnenghi, "L'esposizione della morte," in Gabriele Ranzato, ed., *Guerre fratricide: Le guerre civili in età contemporanea* (Turin, 1994), pp. 330-352, especially p. 333.

¹⁷ Luzzatto, p. 42; cf. Pavone's *Una guerra civile*, p. 511.

¹⁸ Luzzatto, p. 42; cf. A. Repaci, *Fascismo vecchio e nuovo e altri saggi* (Turin, 1954), p. 137.

¹⁹ See Pietro Nenni, *Vento del Nord. Giugno 1944-giugno 1945* (Turin, 1978), pp. 355-56.

²⁰ John Foot, "The Dead Duce."

²¹ Interestingly, Audisio's account was published posthumously, at the author's request, and purports to substantiate the version Audisio gave through the pages of *l'Unita* in the days and months following Mussolini's death. Indeed, the memoir is filled with Audisio's repeated assurances of the veracity and complete accuracy of his account, aware as he was of a lifetime of doubts and skepticism that followed him after the events of April 28, 1945.

²² Cf. John W. Dower's excellent *Embracing Defeat: Japan in the Wake of World War II* (New York, 1999).

²³ Luzzatto, *Il corpo del Duce*, p. 69.

²⁴ The Vatican reaction is described in Bracker's piece "Slain by Partisans," of April 30, 1945. See also *l'Osservatore Romano* of late April, early May 1945. For reaction of some members of the CLN, including the moderate centrist and right-wing parties, see "Il racconto del partigiani che esegui la sentenza e Come ho visto Mussolini a Piazzale Loreto a Milano," an unsigned article in *Risorgimento liberale*, May 1, 1945. See also the Christian Democrat organ *Il Popolo*, 30 April 1945. Cf. A. Giovagnoli, *La cultura democristiana* (Rome-Bari, 1996) for Catholic reaction to the events in question. Other critical assessments of the events of late April 1945 came from leading anti-Fascists such as Piero Calamandrei, in the pages of his *Ponte* magazine. See, for example, "Idrometro," June 1945, p. 254, written under pseudonym "Il Pontiere." See also reactions by Adolfo Omodeo, a well known Action party activist, in his *Lettere 1910-1946* (Turin, 1963), G. Ansaldo, *Diario di prigionia* (Bologna, 1993). For a sense of how Mussolini's family reacted to the news of his death and exposition, see R. Broggin, "La 'famiglia Mussolini'. I colloqui di Edda Ciano con lo psichiatra svizzero Repond, 1944-1945," in *Italia contemporanea*, n. 203, June 1996, and Anita Pensotti's interview with Romano Mussolini, Mussolini's son, in "Il Memoriale di Romano Mussolini a cinquant'anni dalla morte di suo padre," in *Oggi*, April-May 1995, especially at pp. 42-44.

²⁵ Sforza is quoted by Audisio in *In nome del popolo italiano*, p. 383-84.

²⁶ "The End of Mussolini," *New York Times*, April 30, 1945, p. 18.

²⁷ See "L'esecuzione di Mussolini," in *l'Unità*, April 30, 1945.

²⁸ Quoted by Luzzatto, *Il corpo del duce*, p. 69, but originally in *Avanti!*, April 30, 1945. Cf. Claudio Pavone's *Una Guerra civile*, p. 514.

²⁹ On the difficult task facing Resistance leaders, as they came to terms with the limited nature of the Resistance and its responsibilities to rebuild and redefine Italy, see G. E. Rusconi, *Se cessiamo di essere una nazione. Tra etnodemocrazie regionali e cittadinanza europea* (Bologna, 1993). See also Luzzatto, *Il corpo del duce*, p. 69.

³⁰ See Pavone's excellent and concise "Introduction" to the special issue of the *Journal of Modern Italian Studies* devoted to the so-called 'hidden pages' of contemporary Italian history. See volume 9 (3) 2004: 271-279, especially pp. 271-274. For a fuller treatment of the myth of Italian 'goodness', see D. Bidussa, *Il mito del bravo italiano* (Milan: Il Saggiatore, 1994).

³¹ *Ibid.*

³² The 'bad German-good Italian' myth has been explored by Filippo Focardi, "La memoria della Guerra e il mito del 'bravo italiano'. Origine e affermazione di un autoritratto collettivo," *Italia contemporanea* (September-December 2000): 393-399; and his "'Bravo italiano' e 'cattivo tedesco': riflessioni sulla genesi di due immagini incrociate," *Storia e memoria* 1 (1996): 55-83.

³³ Ruth Ben-Ghiat, "A Lesser Evil? Italian Fascism in/and the Totalitarian Equation," in *The Lesser Evil: Moral Approaches to Genocide Practices in a Comparative Perspective*, edited by Helmut Dubiel and Gabriel Motzkin (London: Frank Cass, 2003-2004), available at <http://www.sissco.it/attivita/sem-set-2003/relazioni/ben-ghiat.rtf>, accessed January 30, 2005.

³⁴ See Bidussa's, *Il mito del bravo italiano*. In the past decade or so, Italian historians have devoted ever greater attention to the racism and racist thought in Fascist Italy. See, for a preview, Alberto Burgio, "Una ipotesi di lavoro per la storia del razzismo italiano," in *Studi sul razzismo italiano* eds., Burgio and Luciano Casali (Bologna: Clueb, 1996), pp. 19-28. For the most recent scholarship on the Jews of Italy under Fascism and Italian anti-semitism, see Stefano Luconi's review article "Recent trends in the study of Italian anti-Semitism under the Fascist regime," *Patterns of Prejudice*, Vol. 38, No. 1/March 2004, pp. 1-17. See also B. D. Cooperman and B. Garvin, eds., *The Jews of Italy: Memory and Identity* (Bethesda: University Press of Maryland, 2000), and Joshua D. Zimmerman, ed., *The Jews of Italy under Fascist and Nazi Rule, 1922-1945* (Cambridge: Cambridge University Press, 2005). The latter anthology works to challenge the 'myth' of Italian benevolence vis-à-vis Jews in the Fascist era.

³⁵ On this notion of Italian fascism as an "imperfect totalitarianism," see Emilio Gentile, "Fascism in Italian Historiography," *Journal of Contemporary History* 21 (1986), at pp. 200-203. See also Renzo De Felice, *Il fascismo. Un totalitarismo all'italiano?* (Turin: Einaudi, 1981), and Emilio Gentile, *La via italiana al totalitarismo. Il partito e lo Stato nel regime fascista* (Rome: La Nuova Italia, 1995)

³⁶ Ben-Ghiat, "The Lesser Evil," pp. 1-2.

³⁷ See Richard Pankhurst, "Italian Fascist War Crimes in Ethiopia: A History of Their Discussion, from the League of Nations to the United Nations, (1936-1949), *Northeast African Studies* Vol. 6, No. 1-2 (New Series) 1999, pp. 83-140.

³⁸ The phrase ‘Italian Nuremberg’ is how Michele Battini describes this major trial that never was. See his “Sins of memory: reflections on the lack of an Italian Nuremberg and the administration of international justice after 1945,” *Journal of Modern Italian Studies* 9 (3) 2004: 349-362. See here at pp. 356-58. See also his monograph on the same topic, *Peccati di memoria. La mancata Norimberga italiana* (Rome-Bari: Laterza, 2003). Cf. L. Huyse, “The Criminal Justice System as a Political Actor in Regime Transitions: The Case of Belgium 1944-1950,” in I. Deak, J.T. Gross and T. Judt, eds., *The Politics of Retribution in Europe* (Princeton, NJ: Princeton University Press, 2000).

³⁹ Battini, “Sins of memory,” p. 359.

⁴⁰ See Pavone’s “Introduction” to *Journal of Modern Italian Studies*, p. 271-274.

⁴¹ Collotti is quoted in Ben-Ghiat’s “A Lesser Evil?” p. 15. See his introduction to a recent study of concentration camps in Italy, titled *I campi di concentramento in Italia* ed. Costantino Di Sante (Milan: FrancoAngeli, 2001), pp. 9-10. In recent years, Italianists have turned to document and analyse the full extent of Italian occupational policies during the war. See, most notably, Davide Rodogno, *Il nuovo ordine mediterraneo. Le politiche di occupazione dell’Italia fascista in Europa (1940-1943)* (Turin: Bollati Boringhieri, 2003). See also James Walston, “History and Memory of the Italian Concentration Camps,” *The Historical Journal*, Vol. 40, no. 1 (1997): 169-183.

⁴² Ben-Ghiat, “A Lesser Evil?” p. 17.

⁴³ See Ernesto Galli della Loggia, “Criminali di guerra nostrani,” *Corriere della Sera*, “Sette” Magazine, June 28, 2001, quoted in Beh-Ghiat, “A Lesser Evil?” p. 17.

⁴⁴ John W. Dower, *Embracing Defeat: Japan in the Wake of World War II*, pp. 443-444.

⁴⁵ Dower, p. 23. See chapter one of my *From Fascism to Democracy: Culture and Politics in the Italian Election of 1948* (Toronto, 2004).

⁴⁶ Battini, “Sins of memory,” p. 349.

⁴⁷ Battini, “Sins of memory,” p. 349.

⁴⁸ See Giuseppe Di Palma, “Italy: Is There a Legacy and is it Fascist?” in John H. Herz, ed., *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism* (Westport CT: Greenwood Press, 1982), reprinted in Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes* (Washington, D.C: U.S. Institute for Peace, 1995), Volume II, Country Studies, here at p. 155-156.

⁴⁹ On the notion of Italian Fascism as an “imperfect totalitarianism,” see Emilio Gentile, “Fascism in Italian Historiography,” *Journal of Contemporary History* 21 (1986) at pp. 200-203. For a critique of this view, arguing that we simply do not know enough about the full extent of Mussolini’s repressive measures, or about Fascist war crimes during World War Two to categorize Fascist Italy as a “lesser evil” than Nazi Germany, see ⁴⁹ Ruth Ben-Ghiat, “A Lesser Evil? Italian Fascism in/and the Totalitarian Equation,” in *The Lesser Evil: Moral Approaches to Genocide Practices in a Comparative Perspective*, edited by Helmut Dubiel and Gabriel Motzkin (London: Frank Cass, 2003-2004), available at http://www.sissco.it/attivita/sem-set-2003/relazioni/ben-ghiat_rtf, accessed January 30, 2005.

⁵⁰ Cf. Di Palma, “Italy: Is There a Legacy and is it Fascist,” p. 155.

⁵¹ See chapter one of my *From Fascism to Democracy: Culture and Politics in the Italian Election of 1948* (Toronto: University of Toronto Press, 2004).

⁵² Di Palma, p. 155.