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Politics and Justice in Late Medieval Bologna

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Medieval Italian cities have frequently been the focus of international historical research. The particular qualities of the elites that emerged here were notably stressed by Marino Berengo in his classic book on the history of European towns.(1)

Venice, Florence, Genoa and Milan above all have been examined, and some of their issues have been the subject of perennial debate. Other towns, even if important, have to a certain extent been overlooked. Bologna is one of these, and this is one of the reasons this new volume is welcome. Furthermore, it concentrates on the issue of the People, whose nature has been subject of an historical feud for some time (this debate issummarized by Blashei in her introduction).

Sarah Rubin Blanshei, best known for a book on the Commune of Peruse in the 13th and 14th centuries (2), began to work on Bologna, publishing articles between 1981 and 1983, but her work then took her in another direction. Since then she has continued where possible to work on the same subject and period for Bologna. She has successfully made connections between political problems and the practice of criminal justice, using a large database of over 18,000 communal officeholders.

This important book concentrates on the mid-13th century, when the Bolognese People began to play an important role in the city, up to 1327, when, exhausted from internal factions, Bologna surrendered to

Cardinal Bertrand del Poggetto, pontifical legate. By that time the city was already in decline, with its first economic and demographic crisis dating from the 1280s. At that time the city?s population peaked at around 60,000, while at the end of the period it had declined by around a third.

Bologna lacks the statutory books of the People, but over 700 judges? registers have been preserved. Blanshei has based her work on these archival sources, among others, and has been able to confirm and also improve the data hitherto produced by Bologna historians. Following in the footsteps of pioneers Alfred Hessel and Gina Fasoli , these have become more numerous in the last few decades, with the likes of Antonio Ivan Pini, Francesca Bocchi, Giorgio Tamba, Massimo Vallerani and Giuliano Milani tackling similar Bologna-based topics.

Blanshei?s very patient analytical work on the leading families of the town and the surrounding countryside, which looks through the rich preserved papers of the councils and the judicial courts (these are listed in an appendix, pp. 529?639), has made a vital contribution to Bolognese history. It also offers a useful contribution to more general discussions on communal history. Mostly in comparison with Florentine 'popular' developments, Blanshei's book proves how potentially wrong generalisations on this subect can be. Each case has its own special features ? which can be seen, for example, in by own work on the problem of the judiciary in Siena.(3)

Among the distinctive aspects of the book, I would stress the following:

Bankers, merchants and notaries (more than jurists, though these also played a role) were the most active and eminent social and political groups during the entire period of the Commune. But this was the case even earlier, from the years around 1230. This idea of continuity is also supported by the fact that many leaders among the 'populars' during the 1270s were of ancient origin and yet *not* considered as 'magnates'. When a family lost pre-eminence in its traditional guild, its members spread out in many different guilds to get leading positions. Different outcomes of powerful families ? for example, Pepoli and Gozzadini ? can be explained through their different levels of political flexibility in alliances.

The problem of *contado* (countryside) nobles was never solved by Bolognese Commune and remained a constant one from 1256?7, when the Commune enacted the famous *Liber Paradisus* to give serfs of the *contado* their freedom. The feud intensified again around 1300 with the Este war and later with the presence of the Ghibellines, a faction backed by the Holy Roman Emperors. Every problem was bound up with the question the civic finances, although they were based on sophisticated system of tax-raising (beginning with the well developed *catasto*).

In contrast to the case in other cities of the time, in Bologna to be a 'magnate' was not the same of being 'noble', as has already been pointed out by Gina Fasoli. It was a *temporary* status, bestowed from time to time according to specific political needs and which allowed certain powers in law. Laws in Bologna were frequently rewritten, and this created a legal incertitude and areas of judicial conflictwithin the ruling group.

Factions were *not* a new feature of the 14th century, and nor was violence. Both aspects were already well entrenched in daily life. The turn from the 13th to the 14th century didn?t produce significant changes in civic attidudes.

The difference between the accusatory and inquisitorial systems in criminal courts in Bologna was never as neat as has been traditionally suggested. It was possible in the latter for the judge to ask for external assistance (*promotor*, *coadiunctor*); moreover, the *ordo iudiciarius* (the Anglo-American due process of law) was generally protected by the judges, even when *banniti* or infamous persons were prosecuted, and they were formally authorized to make use of judicial torture and summary procedure. Petitions first and later *querelae* could be used to order a new examination of the legal aspects of the case that judges normally could not consider. Generally the Council of the People, the main political assembly, was able to influence the sentence, giving *arbitrium* to the podestà and his judges to continue, or committing the case for a mandatory *compromissum/laudum.*

Justice, above all the criminal justice considered here, was very contradictory and there was little help from the fact that the jurisdictions of Chaptain of the People and *Podestà* did not overlap, as was often the case elsewhere. It was balanced in some aspects but affected by politics in others. The *Podestà*, a foreigner, as were as the majority of his judges and notaries, administered the ordinary justice in a straight way, often making reference to the *consilia sapientum* (consisting of learned jurists). He always had to anticipate possible condemnations during the *sindicatus* procedure at the term of his (short) office. The Chaptain, with his *vicarius* judge, was very close to the Council of the People, the highest political and legislative institution, and examined ? among other duties ? the questions of membership of the guilds and the army societies. These were very delicate judgments, since belonging to these was necessary in order to enjoy political rights in Bologna. During this period membership of these societies and the other (legally identified) groups was made hereditary.

To have clarified this complex process is probably the main achievement of this book. She deals not only with the technicalities of the laws, but the consciousness the people had of these and makes intelligent use of the witness statements that have been preserved.

The book is therefore very useful in terms of the political and social history of Bologna (with useful insights into the more general history of communes) and for introducing the technical details of judicial history of that time, going well beyond the achievements of Hermann Kantorowicz's classic book on Albertus Gandinus and the criminal law of the 'Scolastik' (university) doctrine (I-II, 1907-26).(4) I particularly underline the utility of her findings on *consilia sapientum*, false contracts and witnesses and accusations.

What is probably more astonishing for students of other communal experiences is the growing system in Bologna of privileges and procedural immunities from as early a date as 1251, well before the well known and celebrated *Ordinamenta Sacra* and *Sacratissima* of the people against the *magnates*. By end of our period almost half of the population were affected by these. This introduced strong contradictions in the ideals and practice of the 'popular' government. Their nexus with the economic and financial problems explains the crisis which led to the proto-*signoria* of Pepoli and then to the true *signoria* of del Poggetto.

The existence of a large privileged and hereditary body of citizens was clearly against the *aequalitas* of the ideology of the People: here are the roots of the future aristocracy of Renaissance Bologna. It was not question of class struggle or of a pure factionalism. It was a question of a group who excluded all others in order to obtain an identity and monopolize resources. In Bologna as elsewhere the principle ?the winner takes it all? became true. It was an exclusionary process which is well documented by Blanshei. She does not isolate that process from other contemporary conflicts which led to 'lateral' exclusions: of political enemies (Lambertazzi), of the non-noble inhabitants of the *contado*, of foreigners and of the more humble tiers of the civic society.

In Blanshei's work every argument is supported by rich and well-reasoned documentation. The gap between theory and practice is also demonstrated, most notably in the supposed triumph of the ('popular') *pacifici agni* against the *lupi rapaces* (the too much powerful persons thought dangerous to the city). This triumph hid, unfortunately, the conquest, step by step, of institutions and a related hardening of groups. This process occurred while Bologna was (apparently) increasing political participation. A council of 4,000 people

selected citizens for public officies, of which there were almost 2,000! But this did not stop the growth of what Blanshei, as well as many other historians, calls 'oligarchy'.

I should prefer more cautiousness about the use of this term (5), as the book also indicates how difficult was to build an oligarchy in Bologna!

The book looks at the People *not* during its efforts to enter and conquer institutions ? a less documented time. Instead it shows the *winning* People, when its power was already institutionalized, and its subsequent decline. Blanshei herself remarkss that ?stability was the quality most lacking in communal society (p. 311). Bologna had various interacting and interdependent elites at the same time, and there were continous changes in the nature of the elites, whose stability was often broken by variations and oscillations.

Oligarchy as a concept thus gives an idea of a stability which was never reached by the different Bolognese regimes of this period as the *histoire événémentielle* of the city shows? Resolving political feuds took endless effort. This shows the absence of a steady political plan on the part of the elites we refer to when we speak of oligarchy.

The same judicial history well described by Blanshei shows how strong a goal was the rule of law. Belief in the judiciary is shown for instance by the anonymous denunciations which were presented, which were examined even when against members of the regime! Exceptions from the due process could be created by political power, of course, but the judiciary had its own space to resist this.

Political power at that time felt itself 'sovereign' even if it did not use that word. It was considered to have the full right (and duty) to enter judicial life to ensure justice.

Unfortunately it eventually began to use its prerogatives simply to preserve itself!

In the 'town of the law', a city which harboured 2,000 students from all over Europe at that time, there is no surprise as to the extent of the rich documentary sources produced by the law. The well-studied crisis of the leading groups by Blanshei contributed to the People?s demise; elsewhere it happened even earlier (Veneto, Lombardy), while in other places it was later (Tuscany).

Anyway the ultimate decline cannot obscure its earlier successes. Bologna flourished again later and enjoyed large political participation in its local government. This shows that genuine 'popular' practice continued in the subsequent period of civic culture. During early modern history Bologna lived under a large civic aristocracy, even if this was under papal supervision.(6)

Certainly with the end of the 13th century a new period, with true economic and financial difficulties, started everywhere in Italy. New instruments of government were to be invented, like the bonds of the public debt as well as *catastos* and more pragmatism was appiled to the use of political ideas and terms.

Propaganda became a new reality, strong as never before. Elites found it useful to use the language of participation, of the 'people', to face and govern the new difficult situation. Society had been accustomed to that language for a long time. The true openess was more difficult to ensure and preserve.

We should distinguish the cultural level from the practice of government and particularly from its criminal repression. Us moderns, for example, give it and its guarantees more importance than our ancestors were wont to do.

Contemporary history teaches that at the same time we can find in the same context contradictory and very different levels of civilisation, and that is why it is possible to feel so close to our medieval history.

Notes

1. Marino Berengo, *L' Europa delle città. Il volto della società urbana europea tra Medioevo ed età moderna* (Turin, 2000).Back to (1)
2. Sarah Rubin Blashei, *Perugia, 1260?1340: Conflict and Change in a Medieval Italian Urban Society* (Philadephia, PA, 1976).Back to (2)
3. M. Ascheri and C. Papi, *Il Costituto del Comune di Siena in volgare (1309-1310): un episodio di storia della giustizia?* (Florence 2010).Back to (3)
4. Hermann Kantorowicz, *Albertus Gandinus Und Das Strafrecht Der Scholastik* (1926).Back to (4)
5. ee M. Ascheri, *Le città-Stato. Radici del municipalismo e del repubblicanesimo italiani* (Bologna 2006).Back to (5)
6. Angela De Benedictis, *Diritti in memoria, carità di patria. Tribuni della plebe e governo pontificio a Bologna (XIV-XVIII secolo)* (Bologna 1999).Back to (6)

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