

Politics, law and literature. The dialogue between Machiavelli and Guicciardini

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1. This paper aims to provide a view of the relationship between political and legal thought, in order to discuss some topics and philological aspects of the research on Guicciardini's work that I'm conducting here at the Italian Academy¹.

To show you simply a single perspective in which we can discuss the relationship between law and politics at the beginning of the XVIth Century I will be focussing on the well known dialogue between Guicciardini and his friend Niccolò Machiavelli and emphasising some peculiar aspects of how they interpret the «imitation of the ancients», as the attempt to base politics upon its own principles, *iuxta propria principia*². To this end, no page is more appropriate than Machiavelli's *Preface to Discourses on Livy* in illustrating and clarifying the way in which the Italian Renaissance considered the rediscovery of the ancient classical texts, as a set of examples useful to contemporary rulers³:

Considering how much honour is attributed to antiquity, and how many times (leaving aside many other examples) someone has purchased a fragment of an ancient statue at a great price to have it near him, to decorate his home, and to have it imitated by those who delight in that art, and how those artists with every diligence then strive in all their works to represent it, and, on the other hand, seeing that the most virtuous enterprises the histories show us to have been carried out in ancient kingdoms and republics by kings, generals, citizens, lawgivers, and others who have laboured for their native lands are praised with astonishment rather than imitated (indeed, are avoided by everyone in every way, to the extent that no trace of that ancient ability has survived), I cannot be but both amazed and saddened. *And I am even more so when I see that in the civil disputes that arise among citizens, or in the illnesses that afflict men, we always have recourse to those remedies or those judgements that have been pronounced or prescribed by the ancients, since civil laws are nothing other than the decisions delivered by the jurists of antiquity which, organized into a body, teach our contemporary jurists how to render judgements* (italics mine), nor again is medicine anything other than the experiments performed by the doctors of antiquity upon which today's doctors and their diagnoses rely. Nevertheless, in organizing republics, maintaining states, governing kingdoms, in instituting a militia and administering a war, in executing legal decisions among subjects, and in expanding an empire, no prince, republic, military leader, or citizen can be found who has recourse to the examples of the ancients.

This arises «from not possessing a true understanding of the histories, so people who read take pleasure in hearing about the variety of accidents they contain without otherwise thinking about imitating them, since they believe that such imitation is not only difficult but impossible, as if the sky, the sun, the elements, or human beings had changed in their motion, order, and power from what they were in antiquity»⁴.

It has been said that these words remind us of the dedication to Brunelleschi, written by Leon Battista Alberti in his *De pictura*, even if Machiavelli could not possibly have read the albertian manuscript (the work was, in fact, printed for the first time in the middle of XIXth Century)⁵. But this does not really matter to us right now. As Federico Chabod wrote in his *Lessons of Historical Method*, perhaps exaggerating a little: «Find every source of Machiavelli, and you still haven't found anything of his political thought»⁶. This remark was actually referred to those who spent their time looking for the sources of a thinker, as

Machiavelli, which Chabod considered as a «creator» of the modern political thought, a man «in search for unknown lands and seas» of whom we know less or nothing about his formative years. Nonetheless, if Machiavelli has been a creator of something new, an «inventore», to use the words of Guicciardini, it's important to appreciate how, and what he was doing writing the *Preface* of the *Discorsi*.

With explicit reference to the relationship between law and medicine, in Machiavelli's *Preface* we hear an echo of humanistic disputes, which were studied in detail by Lynn Thorndike and Eugenio Garin⁷. In these controversies *de nobilitate legum et medicinae*, on the nobility of law and medicine, were involved, among others, Leonardo Bruni, Poggio Bracciolini, Nicoletto Vernia, Coluccio Salutati, Marsilio Ficino, Matteo Palmieri and some traces can still be found in Girolamo Savonarola's sermons and treatises⁸. These disputes were the expression of a profound cultural crisis, which manifested itself in searching for new relationships between the different branches of knowledge, new balances and new methods⁹. And Machiavelli was, in fact, more interested in considering the method of the two sciences, medicine and law, which, according to him, was essentially based on the imitation of the ancient physicians and lawyers¹⁰. He thought that modern lawyers and physicians were trained in that way. In other words, those sciences could count on the authority of a tradition. When Machiavelli says that «civil laws are nothing other than the decisions («sentenze») delivered by the jurists of antiquity which, organized into a body («ridutte in ordine»), teach our contemporary jurists how to render judgements», he, probably, has in mind the *Digest*¹¹, the body of Roman law collected by the Emperor Justinian, in VIth Century, and even the long tradition of legal studies conducted upon it.

As we know, the oldest manuscript of the Justinian's *Digest*, the so-called *littera pisana* or *littera florentina*, was brought to Florence with the conquest of Pisa in 1406, and was guarded and treated as an object of worship¹². It was rarely exposed in public, and when it was, only by candlelight. On that very manuscript, Angelo Poliziano, in Florence, had started a work of historization of the Roman law, utilising a new philological method, which would lead to completion the need for a study of law in a humanistic key¹³. It is interesting to note that Machiavelli's father, Bernardo, who was a very modest lawyer, was chosen by the humanist Chancellor of Florence, Bartolomeo Scala, as an interlocutor in the dialogue *De legibus et iudiciis* (1483). It was Bernardo Machiavelli who introduced in the dialogue the issue of the *littera florentina*, «the authority of the *Pandects*, which are religiously kept with other public documents in the Palazzo Vecchio»¹⁴.

This «humanistic» renaissance of law was actually the second revival or «renaissance» of Roman law¹⁵. In a perspective of legal history we have to talk about a «Renaissance» as early as the XIth Century, when, in Bologna, the Roman law became, for the very first time, an object of science. Glossators, first, and commentators, then, gave it new life: it was the birth of the common law. This period has been called the Legal Medieval Renaissance¹⁶. That second renaissance of Roman law, which rises between the XIVth and the XVth Century, starts out with the accusations made by Petrarch against lawyers¹⁷. «The greater part of our legists», Petrarch declares, «cares nothing for knowing about the origins of law and about the founders of jurisprudence, and has no other preoccupation than to gain as much as they can from their profession»¹⁸. The disjunction between «legal doctrines and practice» was not related to the «norms themselves, and certainly not to the Justinianic *Corpus*, but to those who interpreted the law»¹⁹. These accusations, that lawyers were unhistorical and had no interest in the arts and literature, which «would be of great practical use for their very profession», were repeated by humanists such as Lorenzo Valla²⁰. They attacked the medieval jurists for lacking in linguistic, philological and historical expertise, indispensable in correctly understanding the Roman law.

These ideas acted very deeply in the consciousness of the jurists, leading them, not to an open revolt against the medieval tradition, but to a conflict within themselves and the way they interpreted the law and played their role in society²¹. Leaving aside the surface polemic, these new positions however did not, in any way, intend to call into question the authority of medieval jurists²². Their authoritativeness, especially in politics, and not only in legal disputes, where it may seem obvious, remained intact throughout the XVIth century²³.

A humanist such as Alciato, for example, still refers to Bartolo da Sassoferrato, the most distinguished jurist of the XIVth century, to signify «the law as a whole»²⁴. Bartolo was the greatest figure in the late medieval school of law, and his authority was so great that his opinions were cited by rulers and by courts as if they had the authority of judicial decisions²⁵. It is impossible to understand the Italian origins of what Hans Baron has called «Civic Humanism» without taking into account Bartolo's anti-tyrannical roots as well as those of his followers, first and foremost Baldo degli Ubaldi,²⁶. Similarly we cannot comprehend the roots of so-called «republicanism» without considering the political contours of their «civilis sapientia», as it has been pointed out by Nicolai Rubinstein, referring to Bartolo's treatises *De regimine civitatis* and *De tyranno*²⁷. Such writings were still considered of indisputable authority throughout the «machiavellian moment»²⁸, as we shall see for Guicciardini's political thought. This anti-tyrannical tradition of Bartolism, a typical element of Italian political thought, was acknowledged in the late Renaissance by Jean Bodin²⁹, and the Calvinist jurist Innocent Gentillet, author of the *Antimachiavel* in 1576, which expressly referred to Bartolo, against the Italian courtiers' bad reading and misleading interpretation of Machiavelli's works, to remind them of the good and old tradition of Italian political thought³⁰.

Bartolism may rightly be regarded as the key to legal and political modernity, despite the criticism of humanists³¹. Donald Kelley stated that «Bartolism has often been derided as a particularly virulent form of scholasticism, but from a less partisan standpoint it appears as a central and shaping feature of Renaissance culture, most especially in political terms. For Bartolus and Baldus displayed not only technical legal expertise in 'both laws' but also the values and aspirations of a new *civiltà*, a new political culture based on a commitment to the ideals of citizenship and the active life»³². It is hard to believe that Machiavelli was detached from these events, because of a tradition of political thought, which was still alive in the Florentine Chancery³³, as well as for his training, still unknown to us, but, as it was shown by Laurence Arthur Burd, he could not be devoid of some legal knowledge³⁴.

So returning to the *Preface*, cited at the opening, and considering this in the context of Bartolism and anti-bartolism in which Machiavelli wrote, we can appreciate his *Discourses* as an attempt to manage in a commentary, a body of examples to be imitated and helpful in ruling the republics. A commentary, such as the legal ones, would have gained its own authority for its contemporaries. If the jurisconsults can be taught to judge according to a body of precedents, decisions («sentenze»), examples, derived from the history of their profession, why cannot rulers be taught to rule according to a body of examples taken from their history?³⁵

Law, according to him, is a discipline that represents a successful use of antiquity. In this connection, the lessons of history could be successful in politics (and this is the matter of contention between Machiavelli and humanists), only doing for politics what it had already done for the law, giving it new and perpetual life, a tradition, as it were, to classical antiquity. After the publication of Machiavelli's *Discourses*, Livy would no longer be the same in political training, just as the *Digest* was no longer the same after a long tradition of glossators and commentators.

The dialogue with Francesco Guicciardini (if studied in the same way as John Najemy did for the one between Niccolò and Francesco Vettori)³⁶, reveals some valuable information

in appreciating just how a jurist, as his friend actually was, might consider the method presented at the beginning of the *Discourses*.

2. Considering the problem more thoroughly, the dispute between Charles Benoist and Vincent Luciani, regarding the «influence» of Machiavellian political thought on Guicciardini, was resolved by Felix Gilbert³⁷. We know that Guicciardini had known the *Discourses* since 1521, but we do not know anything about his knowledge of the *Prince*. Nevertheless, as Gilbert wrote, «in his very first work, the *Storie Fiorentine*, which was completed before Machiavelli had begun to write the *Prince*, Guicciardini already reveals the distinctive traits which persist through the whole of his life. *As early as this, he stands out as the Florentine patrician exhibiting the benefits and limitations of an outlook determined by class, he displays the keen, legally trained mind to which the rich intellectual heritage of the 15th century was only a useful instrument for practical ends, he shows himself possessed of an exclusive, passionate devotion to the world of history and politics* (italics mine). His mind, in its essential features, is definitely formed. Yet, this is but the frame, and within it, his political thought shows change and development [...]. This development indicates that his thought must have been affected by outside factors»³⁸. In seeking the causes of this development there is no reason to consider Machiavelli as a decisive factor, but we must not discard the possibility of Machiavelli's influence.

The dialogue between the two friends discloses the different ways in which they interpreted the histories and lessons of the ancients. It may reveal the peculiar characters of a Machiavellian influence in defining the contours of the later method of Guicciardini. We know that Guicciardini thought himself, first of all, as a doctor of laws. Even Machiavelli in his letters refers to his friend as to the «iuris utriusque doctor» (doctor of both civil and canon laws), and with this title Guicciardini introduced himself in his *Storia d'Italia*. In book X, talking about his diplomatic mission in Spain (1511), he writes that in a «wavering and irresolute disposition, to the great displeasure of the King of France», the Florentines sent an «ambassador to the king of Aragon, Francesco Guicciardini, he who wrote this history, doctor of laws»³⁹. This passage should be considered even in relation to the history of the European reception of the *Storia d'Italia*, after it was published for the first time in 1561. We have the impressive study *Francesco Guicciardini and His European Reputation* written at Columbia University by Vincent Luciani, in 1936. The work is a history of the editions and translations of Guicciardini's work and provides an account of the reviews of it. We still do not know anything about the way how the political and legal thought used the *Storia d'Italia*. The work of Guicciardini was in fact a fundamental key for the modern definition of some important concepts, and it has been read even as a body of legal cases and of political terms. Jurists as Jean Bodin, Michel de Montaigne or Alberico Gentili, during the late XVIth Century read the *Storia d'Italia* in this way. This public of readers deserves our respect and legitimates the attempts to investigate the *Storia* as well as the other Guicciardini's works even in a legal perspective.

There is no need to dwell on Guicciardini's legal training. In this respect, a lot has been said and recently Paul Grendler wrote about the *Ricordanze*, an autobiography in which Guicciardini introduces himself, as usual, as a «doctor in civil and canon law»⁴⁰. He was the son of Piero Guicciardini, a humanist and republican, who belonged to the Florentine ruling class⁴¹. So he was born with a «grado» («rank»), a «status» which granted him an important role in the government of the city combined with a specific political responsibility⁴². Piero gave him the name of Francesco after Francesco di Filippo de' Nerli, his father's maternal grandfather, and Tommaso, in reverence of St. Thomas Aquinas on whose feast day he was born (March 6, 1483). He was held at the font by Marsilio Ficino, then the world's foremost

platonian philosopher⁴³. His father was a Savonarola's devoted follower, so as he tells in another work, entitled, *A se stesso* (1513), he was «allevato santamente», probably amongst the *Fanciulli* of the Friar. He began to study law in Florence in 1498, at the *Studio* with Jacopo Modesti da Prato, a humble professor, but he immediately found Filippo Decio, a renowned canonist, who became his mentor. In fact, Guicciardini followed Decio, when he went to Padua, where he was the highest paid professor of law. As Guicciardini wrote in his *Storia d'Italia*, Decio was «the most excellent jurist of his time». There would be much to say about their relationship, because Guicciardini was very devoted to Decio. Guicciardini lived in his house in Padua for two years and attended his public legal disputes (with *pro et contra* about a particular legal issue) that his mentor would always win. As a result, many of Guicciardini's subsequent political discourses contain *pro et contra*, revealing his legal background. The young student, actually, chose his mentor almost as suggested by Giovanni Battista Caccialupi in his *De modo in iure studendi*, a sort of a bestseller guide for young students of law: «Choose a teacher carefully, obey him, read the proper books, and learn the best methods of allegation and disputation; for this has always been the way to form a 'new Justinian'»⁴⁴. In 1505, still in Padua, he wrote a repertoire of canon laws, and in October, back in Florence, he began to read the *Istituzioni* at the Studio. He took his doctorate in November, giving his lecture, with a remarkable group of sponsors: Antonio Malegonnelle, Francesco Pepi and Giovan Vettorico Soderini, all of them lawyers and key men in politics who put their legal skills at the service of the State⁴⁵. The same year went on lecturing at the Studio and began to practise law with great reputation.

The studies Osvaldo Cavallar devoted to Guicciardini's legal practice provide a legal training deeply rooted in that bartolism discussed before⁴⁶. What we have to do now is beginning an investigation on his works, considering properly his deep legal background, since this was never done before. We don't have to reduce Guicciardini's thought entirely to his legal training and skills, but reading his pages we have to keep in mind his conceptual toolbox, which could be useful to understand some of his topics that remain still obscure, even after a long tradition of studies dedicated to him.

3. Starting from his legally trained mind, pointed out by Gilbert, we need to ask how he might consider the imitation of the examples taken from the ancient histories provided by his friend Machiavelli. We know he writes his *Considerations on the Discourses of Machiavelli*, as an attempt to restore dialogue and dispute with his friend lost in 1527⁴⁷. His *Ricordi*, a collection of *regulae* taken from his own experience, gives an account of the difficulties he saw related to the successful use of Machiavellian method in politics. In *Ricordi* C 110, he wrote⁴⁸:

How wrong it is to cite the Romans at every turn. For any comparison to be valid, it would be necessary to have a city with conditions like theirs, and then to govern it according to their example. In the case of a city with different qualities, *the comparison is as much out of order as it would be to expect a jackass to race like a horse.*

Guicciardini, referring to his friend Machiavelli, discourages the unconditional application of the examples as a wrong method. As the lawyer he was, he probably had in mind a Justinian's maxim: «non exemplis sed legibus iudicandum est» (C. 7, 45, 13). It has to be judged not with examples, but with laws and rules. In his *ricordo* C 117, he wrote⁴⁹:

To judge by example is very misleading. Unless they are similar in every respect, examples are useless, since every tiny difference in the case may be a cause of great variations in the effects. And to discern these tiny differences take a good and perspicacious eye.

The example is not binding in the judicial process, when it is not considered suitable for the particular case. The necessary condition to use an example (or a «precedent» in legal terms) is the complete similarity of circumstances. Therefore, Guicciardini believes that it is not with examples that you can judge rightly, but only with rules. As we read in the last title of the *Digest, De diversis regulis iuris antiqui*, (on various rules from the ancient law), whose commentary was written by his mentor Filippo Decio and printed in a very successful book⁵⁰ (suggested in the updated version of the aforementioned guide for young students, as a good reading for the student of law during their holidays and summer breaks and as a way to keep their knowledge fresh), «a rule is that which briefly expounds a matter» (*rem breviter enarrat*). Legal rules are concise formulations drawn from the law: «the law is not derived from rules (*regulae*) but a rule is derived from the existing law»⁵¹. Therefore, the rule itself does not create law. A rule is derived from the union of several cases which have the same «ratio». It is a «*coniunctio rationum*», i.e. it is derived from what happens more frequently, in other words, from what «normally» happens («*quod plerumque accidit*»; normally - norm). Its application to a particular case, however, requires «discretion». The Judge will have to see whether a particular rule may or may not be applied to the case in question, using discretion, above all, and passing from the universal rule to the particular case (according to Decio, for instance, «*generaliter*» means «*universaliter*», that what «normally» happens). This was the way of thinking which a jurist such as Guicciardini received formal training for. I believe that his *Ricordi* is an attempt to write a body of such designed rules. The way Guicciardini tries to decode them and give us a key to interpret properly his «*ricordi*», his «*regole*», it's strictly related to his legal background, despite a well-alive tradition of aphoristic writings. He wasn't simply writing a book of aphorisms. For a long time, historians tried to understand what these *Ricordi* really meant and the answer, given by Guicciardini himself, can be found in his *ricordo* A 11, which begins with these words: «These *Ricordi* are rules»⁵². Referring both to the Aristotelian and legal tradition, in the subsequent draft of the text (*ricordo* C 6) Guicciardini wrote⁵³:

It is great error to speak of the things of this world absolutely and indiscriminately and to deal with them, as it were, by the book. In nearly all things one must make distinctions and exceptions because of differences in their circumstances. These circumstances are not covered by one and the same rule. Nor can these distinctions and exceptions be found written in books. They must taught by discretion.

In this way, the unconditional use of examples, which according to his idea of legal training, Machiavelli wanted to apply to politics, is completely called into question by his friend Guicciardini. We understand why Machiavelli was, in Guicciardini's eyes «*ut plurimum* extravagante di opinione delle comune et inventore di cose insolite e nuove», far from common opinion and inventor of unusual and new things, as we read in his letter dated May 18 1521⁵⁴. In this passage, Guicciardini uses a typical expression of the legal disputes. Referring to Bartolomeo Sozzini, the Siennese jurist which Poliziano called «Papinian of our century»⁵⁵, his teacher Filippo Decio and Andrea Alciato said: «*Moris sui est deviare a communi opinione, et regulis iuris*»; he is used to deviating from common opinion and from the rules of law, hence creating something unusual in the law⁵⁶. This is intended as a criticism, even if Guicciardini used these words both with irony and, I believe, admiration for his friend. His legal mind deprived him of that fantasy and courage that makes the thought of his friend so innovative: he, simply, couldn't. From this point of view his work is very interesting because it shows the real tension and the profound crisis in the relationship between politics and law, law and conscience, politics and conscience.

Besides, the debate about the foundations of modern politics, so characteristic of the friendship between Machiavelli and Guicciardini, appears as a dispute on the different ways of applying a legal method to political training. Machiavelli suggests the possibility of

applying the examples taken from the histories to the present day. Guicciardini chooses to seek the rules, combining «esperienza» and «ragione» («ragionevolezza»), experience and good judgement; these rules have to be applied rightly, with the necessary discretion, in the same way as the judge has to apply the law, even though there's a difference between the law and the way that States use in their relationships. Still talking about law, in his *Ricordo C 113*, we read⁵⁷:

It is a mistake to think that the law subjects any matter to the arbitrary judgement – that is, to the free will – of the judge. For the law never gives the judge power to give or to take away. But those cases which the law cannot determine by a fixed rule must be left to the discretion of the judge. After considering all the circumstances and ramifications of the case, he must determine what he thinks is right, according to his *synderesis* and conscience. And in such cases, the judge needs answer to no man for his decisions; but he must answer to God, who knows whether he has decided justly.

So, in his *Ricordo C 111*, Guicciardini clarifies⁵⁸:

Common men [i.e. those who are not jurists] find the variety of opinions that exists among lawyers quite reprehensible, without realizing that it proceeds not from any defect in the men but from the nature of the subject. General rules cannot possibly comprehend all particular cases. Often, specific cases cannot be decided on the basis of law, but must rather be dealt with the opinions of men, which are not always in harmony. We see the same thing happen with doctors, philosophers, commercial arbitrators, and in the discourses of those who govern the state among whom there is no less variety of judgement than among lawyers.

Discretion, *arbitrium*, is necessary in the application of the rule to a particular case, and sometimes a case has to be judged according to the *synderesis*, i.e. to the conscience, leaving aside the rule of law. The «Guicciardinian moment» is still far from what we call «legal certainty». It is the judge's conscience and the equity that locks the «system», which is not limited by the body of laws. In one of the most popular Legal Repertories of the Renaissance it is written: «Discretio et iudicium sunt idem»; «Discretion and judgement are the same»⁵⁹.

Guicciardini, from his legal point of view, said that every example and every rule, to be applied to a particular case, even in ruling republics needs a «good and perspicacious eye». We can find these legal arguments even in the sermons of Girolamo Savonarola. His sermon of March 7 1498 was dedicated to the proper way to judge and apply a rule⁶⁰. What he said was that among physicians and lawyers, some are able to discuss according to the rules and their books, but that they know neither how to rightly judge a case or how to cure a patient. Some others have «iudizio grande», a profound judgement, and thus know both how to judge and to cure. In short, these physicians come straight to the point, to the case at hand. The same applies to lawyers: they don't have to be able to cite examples and references taken from the legal books, but they do have to know how to judge a particular case rightly. Being able only to discuss without judging means knowing nothing and the same applies to the rulers of the republics. Those who know how to judge say: this rule has to be applied here in this particular case, but not to this other one, and sometimes they leave aside the rule, to judge according to equity, conscience and discretion. They understand everything and see if a rule wasn't made for a particular purpose.

Guicciardini uses these ideas to compose the *Ricordi*, a body of political rules, which he inserts even in his *Dialogue on the Government of Florence* and in his *History of Italy*. These would be interpreted in the same way even by the late Renaissance political thought as it is proven by a manuscript which contains a list of essential books «in matter of State», belonging to Gian Vincenzo Pinelli, the bibliophile who lived in Padua and possessed one of

the best private libraries of the sixteenth century, consulted and appreciated by all the European scholars. The «Golden Rules» written by Guicciardini stands first and foremost, followed by the maxims of Lottini and Sansovino, written in imitation of Guicciardini's work. Then we find the *Considerations on the History of Italy*, written by the Dominican Remigio Nannini, followed by Machiavelli and Gentillet's *Antimachiavel*⁶¹.

So as we said earlier, the friendship between Machiavelli and Guicciardini grows in a period when the ties between law and politics face a deep crisis. We can certainly say that their dialogue is an important chapter of what Harold Berman, in his perspective of history, encouraged by his mentor Eugen Rosenstock-Huessy, has called «the breakdown of the Western legal tradition»⁶². In our seminar I would like to talk about some topics related to this research that aims to become a book dedicated to the political thought of Guicciardini. First, I will try to explain, from a legal and political point of view what Guicciardini was doing, writing the controversial portraits of Lorenzo de' Medici, depicted as tacit tyrant, in his *Storie fiorentine* and in his *Storia d'Italia*. Secondly, I will explain why a study about the impact of legal training on Guicciardini's political thought is not only a matter that concerns Guicciardini.

¹ For a bibliography on political thought in the Renaissance and on the history of the term see W. K. FERGUSON, *The Renaissance in Historical Thought: Five Centuries of Interpretation*, Boston, Houghton Mifflin Co., 1948; P. O. KRISTELLER, *Renaissance Thought*, New York, Harper and Bros., 1961-1965; ID., *Renaissance Thought and its Sources*, New York, Columbia University Press, 1979; ID., *Studies in Renaissance Thought and Letters*, Rome, Edizioni di storia e letteratura, 1953-1993; *Supplementum festivum: Studies in honor of Paul Oskar Kristeller*, ed. by J. Hankins, J. Monfasani, F. Purnell jr, Binghamton, NY, Medieval and Renaissance texts and studies, 1987; J. MONFASANI, *Toward the Genesis of the Kristeller Thesis of Renaissance Humanism: Four Bibliographical Notes*, «Renaissance Quarterly», LIII (2000), pp. 1156-1173; *Il Rinascimento. Interpretazioni e problemi*, Rome-Bari, Laterza, 1979, English transl. *The Renaissance. Essays in Interpretation*, London, Methuen, 1982; *Renaissance Civic Humanism: reappraisals and reflections*, ed. by J. Hankins, Cambridge, Cambridge University Press, 1990; D. R. KELLEY, *Renaissance Humanism*, Boston, Twayne, 1991; *The Cambridge Companion to Renaissance Humanism*, ed. by J. Kraye, Cambridge, Cambridge University Press, 1996; *Le filosofie del Rinascimento*, ed. by C. Vasoli, Milan, Bruno Mondadori, 2002; N. RUBINSTEIN, *Studies in Italian History in the Middle Ages and the Renaissance*, I, *Political Thought and the Language of Politics. Art and Politics*, Rome, Edizioni di Storia e letteratura, 2004; *Palgrave Advances in Renaissance Historiography*, ed. by J. Woolfson, Basingstoke, Palgrave Macmillan, 2005, see in particular the study by J. M. NAJEMY, *Politics and Political Thought*, pp. 270-297; *Interpretations of Renaissance Humanism*, ed. by A. Mazzocco, Leiden-Boston, Brill, 2006; *The Cambridge Companion to Renaissance Philosophy*, ed. by J. Hankins, Cambridge, Cambridge University Press, 2007.

² F. GILBERT, *Machiavelli and Guicciardini. Politics and History in Sixteenth Century Florence*, Princeton, Princeton University Press, 1965.

³ NICCOLÒ MACHIAVELLI, *Discourses on Livy*, translated with an Introduction and notes by J. Conaway Bondanella and P. Bondanella, Oxford-New York, Oxford University Press, 1997, pp. 15-16. Niccolò Machiavelli, *Tutte le Opere*, ed. by M. Martelli, Florence, Sansoni, 1971: «Considerando adunque quanto onore si attribuisca all'antiquità, e come molte volte, lasciando andare infiniti altri esempi, un frammento d'una antiqua statua sia suto comperato gran prezzo, per averlo appresso di sé, onorarne la sua casa e poterlo fare imitare a coloro che di quella arte si dilettono; e come quegli dipoi con ogni industria si sforzano in tutte le loro opere rappresentarlo; e veggendo, da l'altro canto, le virtuosissime operazioni che le storie ci mostrano, che sono state operate da regni e repubbliche antiche, dai re, capitani, cittadini, latori di leggi, ed altri che si sono per la loro patria affaticati, essere più presto ammirate che imitate; anzi, in tanto da ciascuno in ogni minima cosa fuggite, che di quella antiqua virtù non ci è rimasto alcun segno; non posso fare che insieme non me ne maravigli e dolga. *E tanto più, quanto io veggo nelle differenze che intra cittadini civilmente nascano, o nelle malattie nelle quali li uomini incorrono, essersi sempre ricorso a quelli iudizii o a quelli remedii che dagli antichi sono stati iudicati o ordinati: perché le leggi civili non sono altro che sentenze date dagli antichi iureconsulti, le quali, ridutte in ordine, a' presenti nostri iureconsulti iudicare insegnano.* Né ancora la medicina è altro che esperienze fatte dagli antichi medici, sopra le quali fondano e' medici presenti e' loro iudizii. Nondimanco, nello ordinare le repubbliche, nel mantenere li stati, nel governare e' regni, nello ordinare la milizia ed amministrare la guerra, nel iudicare e' sudditi, nello accrescere l'imperio, non si truova principe né repubblica che agli esempi delli antichi ricorra. Il che credo che nasca non tanto da la debolezza nella quale la presente religione ha condotto el mondo, o da quel male che ha fatto a molte provincie e città cristiane uno ambizioso ozio, quanto dal non avere vera cognizione delle storie, per non trarne, leggendole, quel senso né gustare di loro quel sapore che le hanno in sé. Donde nasce che infiniti che le leggono, pigliono piacere di udire quella varietà degli accidenti che in esse si contengono, senza pensare altrimenti di imitarle, iudicando la imitazione non solo difficile ma impossibile; come se il cielo, il sole, li elementi, li uomini, fussino variati di moto, di ordine e di potenza, da quello che gli erono antiquamente».

⁴ *Ibid.*, p. 16.

⁵ F. FIDO, *Appunti sulla memoria letteraria di Machiavelli*, «Modern Language Notes», LXXXIX (1974), The Italian Issue, pp. 1-12: 4-5. See LEON BATTISTA ALBERTI, *On Painting and On Sculpture*, ed. by C. Grayson, London, Phaidon, 1972, p. 32.

⁶ F. CHABOD, *Lezioni di metodo storico*, ed. by L. Firpo, Rome-Bari, Laterza, 1969 (1978²), p. 6: «Trovate le fonti del Botero, o del Settala, o di qualunque altro scrittore politico della seconda metà del '500 e dei primi decenni del '600: e avrete gran parte del pensiero del Botero, del Settala ecc. Trovate le 'fonti' del Machiavelli: e non avrete ancora neppur un lontano precorrimto del *Principe* e dei *Discorsi*».

⁷ L. THORNDIKE, *Medicine versus Law in the late medieval and Medicean Florence*, «Romanic Review», XVII (1926), pp. 8-31; ID., *Science and Thought in the Fifteenth Century*, New York, Columbia University Press, 1929; *La disputa delle arti nel Quattrocento*, ed. by E. Garin, Firenze, Vallecchi, 1947 and COLUCCIO SALUTATI, *De nobilitate legum et medicinae. De verecundia*, ed. by E. Garin, Florence, Vallecchi, 1947; F. KRANTZ, *Florentine Humanist Legal Thought, 1375-1450*, Ph. D. Thesis, Cornell University, 1971 (that I could read here at Columbia University); E. COCHRANE, *Science and Humanism in the Italian Renaissance*, «The

American Historical Review», LXXXI (1976), pp. 1039-1057; I. MACLEAN, *Evidence, Logic, the Rule and the Exception in Renaissance Law and Medicine*, «Early Science and Medicine», V (2000), pp. 227-257; P. GILLI, *La noblesse du droit. Débats et controverses sur la culture juridique et le rôle des juristes dans l'Italie Médiévale*, Paris, Champion, 2003. T. KUEHN, *The Renaissance Consilium as Justice*, «Renaissance Quarterly», LIX (2006), pp. 1058-1088.

⁸ See *La disputa delle arti nel Quattrocento*, cit.; D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, Milan, Giuffrè, 1972; P. CARTA, *Francesco Guicciardini tra diritto e politica*, Padua, Cedam, 2008, pp. 71-88. On Savonarola's *Apologeticus de ratione poeticae artis* see GIROLAMO SAVONAROLA, *Scritti filosofici*, I, ed. by G. Garfagnini and E. Garin, Rome, Belardetti, 1982, pp. 209-272 and *Nota critica, ibid.*, pp. 395-398. For a review of major trends in Savonarola studies and bibliography see D. WEINSTEIN, Hagiography, *Demonology, Biography: Savonarola Studies Today*, «The Journal of Modern History», LXIII (1991), pp. 483-503 and by the same author his classic work *Savonarola and Florence. Prophecy and Patriotism in the Renaissance*, Princeton, Princeton University Press, 1970; K. EISENBICHLER, *Savonarola Studies in Italy on the 500th Anniversary of the Friar's Death*, «Renaissance Quarterly», LII (1999), pp. 487-495.

⁹ E. GARIN, *L'età nuova. Ricerche di storia della cultura dal XII al XVI secolo*, Naples, Morano, 1969, p. 247.

¹⁰ M. P. GILMORE, *Humanists and Jurists. Six Studies in the Renaissance*, Cambridge (Massachusetts), The Belknap Press of Harvard University Press, 1963, p. 26.

¹¹ See D. QUAGLIONI, *Machiavelli e la lingua della giurisprudenza*, «Il pensiero politico», XXXII (1999), pp. 171-185: 178.

¹² D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, pp. 84-89; F. K. VON SAVIGNY, *Geschichte des römischen Rechts im Mittelalter*, III, Aalen, Scientia, 1986, pp. 445-448 and also *Le pandette di Giustiniano. Storia e fortuna della «Littera fiorentina»*, ed. by E. Spagnesi, Florence, Olschki, 1983.

¹³ F. CALASSO, *Medio Evo del diritto*, I, Milan, Giuffrè, 1954; pp. 597-605; E. CORTESE, *Il diritto nella storia medievale*, II, Rome, Il Cigno, 1995, pp. 453-484; C. DIONISOTTI, *Filologia umanistica e testi giuridici tra Quattro e Cinquecento*, in *La critica del testo*, I, Florence, Olschki, 1971, pp. 189-204. On Poliziano see also V. BRANCA, *Poliziano e l'umanesimo della parola*, Turin, Einaudi, 1983; V. BRANCA-M. PASTORE STOCCHI, *Introduzione*, in ANGELO POLIZIANO, *Miscellaneorum Centuria Secunda*, Florence, Olschki, pp. 1-81 and P. GODMAN, *From Poliziano to Machiavelli. Florentine Humanism in the High Renaissance*, Princeton University Press, 1998 with bibliography.

¹⁴ A. BROWN, *Bartolomeo Scala, 1430-1497, Chancellor of Florence. The Humanist as Bureaucrat*, Princeton, Princeton University Press, 1979; BARTOLOMEO SCALA, *Humanistic and Political Writings*, ed. A. Brown, Tempe 1997 and now R. FREDONA, *Carnival of Law. Bartolomeo Scala's Dialogue De Legibus et Iudiciis*, «Viator», XXXIX (2008), pp. 193-214. I use the translation by D. Marsh, in *Cambridge Translations of Renaissance Philosophical Texts*, II, ed. by J. Kraye, Cambridge, Cambridge University Press, 1997, pp. 173-199.

¹⁵ J. MONFASANI, *The Renaissance as the Concluding Phase of the Middle Ages*, «Bulletino dell'Istituto Storico Italiano per il Medio Evo», CVIII (2006), pp. 165-85 and now *Renaissance Medievalisms*, ed. by Konrad Eisenbichler, Toronto, Centre for Reformation and Renaissance Studies, 2009 (Essays and Studies, 18).

¹⁶ F. CALASSO, *Medio Evo del diritto*, I, pp. 345-365; ID., *Gli ordinamenti giuridici del Rinascimento medievale*, Milan, Giuffrè, 1965²; ID., *Il diritto comune come fatto spirituale*, «Rivista italiana per le scienze giuridiche», LXXXV (1948), pp. 315-352 now in ID., *Introduzione al diritto comune*, Milan, Giuffrè, 1970, pp. 137-180. See also E. CORTESE, *Il Rinascimento giuridico medievale*, Rome, Bulzoni, 1996.

¹⁷ D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, pp. 33-36.

¹⁸ FRANCESCO PETRARCA, *fam. XX, 4*, in ID., *Epistolae de rebus familiaribus et variae*, ed. by G. Fracassetti, III, Florence, Le Monnier, 1863, pp. 13-22; M. P. GILMORE, *Humanists and Jurists*, p. 26. See also P. O. KRISTELLER, *Eight Philosophers of the Italian Renaissance*, Stanford, Stanford University Press, 1964.

¹⁹ See T. KUEHN, *The Renaissance Consilium as Justice*, p. 1063.

²⁰ D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, pp. 36-44. On Valla and his links with the legal medieval tradition see O. CAVALLAR-S. DEGENERING-J. KIRSHNER, *A Grammar of Signs. Bartolo da Sassoferrato's Tract on Insignia and Coats of Arms*, Berkeley and Los Angeles, Robbins Collection, 1995; M. REGOLIOSI, *L'Epistola contra Bartolum del Valla*, in *Filologia umanistica. Per Gianvito Resta*, II, ed. by V. Fera and G. Ferrau, Padua, 1997, pp. 1501-1571; D. R. KELLEY, *Civil Science in the Renaissance: Jurisprudence Italian Style*, «The Historical Journal», XXII (1979), pp. 777-794 now in ID., *History, Law and the Human Sciences*, London, Variorum Reprints, 1984.

²¹ D. QUAGLIONI, *Tra bartolisti e antibartolisti. L'Umanesimo giuridico e la tradizione italiana nella Methodus di Matteo Gribaldi Mofa (1541)*, in *Studi di storia del diritto medievale e moderno*, ed. by F. Liotta, Bologna, Monduzzi, 1999, pp. 185-212: 187.

²² See D. R. KELLEY, *Jurisconsultus Perfectus: The Lawyer as Renaissance Man*, «Journal of the Warburg and Courtauld Institutes», LI (1988), pp. 84-102 and ID., *History, Law and the Human Sciences: Medieval and Renaissance Perspectives*, London, Variorum Reprints, 1984; ID., *The Writing of History and the Study of Law*, Aldershot, Ashgate, 1997.

²³ L. MARTINES, *Lawyers and Statecraft in Renaissance Florence*, Princeton, Princeton University Press, 1968, pp. 405-455.

²⁴ G. L. BARNI, *Le lettere di Andrea Alciato giureconsulto*, Florence, Le Monnier, 1953, p. 60. For the letter addressed by Andrea Alciato to Boniface Amerbach (Milan, July 11th 1523) see D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, pp. 53-54 and D. QUAGLIONI, *Tra bartolisti e antibartolisti*, p. 187. On Amerbach see also M. P. GILMORE, *Boniface Amerbach*, in ID., *Humanists and Jurists*, pp. 146-177 and the works by G. KISCH, *Humanismus und Jurisprudenz. Der Kampf zwischen mos italicus und mos gallicus an der Universität Basel*, Basel, Helbing & Lichtenhahn, 1955; ID., *Bartolus und Basel*, Basel, Helbing & Lichtenhahn, 1960; ID., *Erasmus und die Jurisprudenz seiner Zeit. Studien zum humanistischen Rechtsdenken*, Basel, Helbing & Lichtenhahn, 1960; ID., *Gestalten und Probleme aus Humanismus und Jurisprudenz. Neue Studien und texte*, Berlin, de Gruyter, 1969 in part. pp. 99-183 expressly dedicated to Myron P. Gilmore.

²⁵ M. P. GILMORE, *Humanists and Jurists*, p. 29.

²⁶ H. BARON, *The Crisis of the Early Italian Renaissance*, Princeton, Princeton University Press, 1955 (1966²). On Baron's Crisis see A. MOLHO, *Hans Baron's Crisis*, in *Florence and Beyond. Culture, Society and Politics in Renaissance Italy. Essays in Honour of John M. Najemy*, ed. by D. S. Peterson and D. E. Bornstein, Toronto, Centre for Reformation and Renaissance Studies, 2008, pp. 61-90 and the *American Historical Review Forum* on *Hans Baron's Renaissance Humanism* introduced by R. G. Witt, «American Historical Review», CI (1996), pp. 107-109, with the following essays by R. G. WITT, *The Crisis after Forty Years*, pp. 110-118; J. M. NAJEMY, *Baron's Machiavelli and Renaissance Republicanism*, pp. 119-129; C. KALLENDORF, *The Historical Petrarch*, pp. 130-141; W. GUNDERSHEIMER, *Hans Baron's Renaissance Humanism: A Comment*, pp. 142-144. See also R. FUBINI, *Renaissance Historian. The Career of Hans Baron*, «Journal of Modern History», LXIV (1992), pp. 541-574 the essay is a review of H. BARON, *In Search of Florentine Civic Humanism: Essays on Transition from Medieval to Modern Thought*, Princeton, Princeton University Press, 1988; J. HANKINS, *The 'Baron Thesis' after Forty Years and Some Recent Studies of Leonardo Bruni*, «Journal of the History of Ideas», LVI (1995), pp. 309-338; P. F. GRENDLER, *The Italian Renaissance in the Past Seventy Years: Humanism, Social History, and Early Modern in Anglo-American and Italian Scholarship*, in *The Italian Renaissance in the Twentieth Century*, Acts of an International Conference, Florence, Villa I Tatti, June 9-11, 1999, ed. by A. J. Grieco, M. Rocke and F. Gioffredi Superbi, Florence, Olschki, 2002, and now on Baron's interpretation of Coluccio Salutati's *De tyranno* see D. QUAGLIONI, «A problematical book». *Il De tyranno di Coluccio Salutati in Coluccio Salutati e l'invenzione dell'Umanesimo*, ed. by T. De Robertis, G. Tanturli, S. Zamponi, Florence, Mandragora, 2008, pp. 135-138. A bibliography of Baron's writings was edited by J. A. Tedeschi and A. Lewis and published in *Studies in Honour of Hans Baron*, ed. by A. Molho and J. A. Tedeschi, Florence, Sansoni, 1971, pp. LXX-LXXXVII.

²⁷ N. RUBINSTEIN, *Le origini medievali del pensiero repubblicano del secolo XV*, in *Politica e cultura nelle repubbliche italiane dal Medioevo all'età moderna. Firenze – Genova – Lucca – Siena – Venezia*, Atti del Convegno (Siena 1997), ed. by S. Adorni Braccesi and M. Ascheri, Rome, Annuario dell'Istituto storico italiano per l'età moderna e contemporanea, 2001, pp. 1-20 now in ID., *Studies in Italian History*, pp. 365-381. See D. QUAGLIONI, *Politica e diritto nel Trecento italiano. Il «De tyranno» di Bartolo da Sassoferrato (1314-1357). Con l'edizione critica dei trattati «De Guelphis et Gebellinis», «De regimine civitatis» e «De tyranno»*, Florence, Olschki, 1983; ID., «Civilis sapientia». *Dottrine giuridiche e dottrine politiche fra medioevo ed età moderna. Saggi per la storia del pensiero giuridico moderno*, Rimini, Maggioli, 1989; and D. R. KELLEY, *The Development and Context of Bodin's Method*, in *Verhandlungen der internationalen Bodin Tagung in München*, ed. by H. Denzer, Munich, C. H. Beck, 1973, pp. 123-150 (also in ID., *History, Law and the Human Sciences*): «It may be noticed that a major omission in the many discussion of 'civic humanism' made and inspired by Hans Baron is the significance of civil law» (p. 128, n. 13). See now O. CAVALLAR, *Geografia della tirannide. Una proposta di lettura per alcuni degli ultimi trattati bartoliani*, in *Della tirannia: Machiavelli con Bartolo*, a c. di J. Barthas, Firenze, Olschki, 2007, pp. 3-46.

²⁸ J. G. A. POCOCK, *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition*, Princeton, Princeton University Press, 1975 and ID., *The Machiavellian Moment revisited: a Study in History and Ideology*, «The Journal of Modern History», LIII (1981), pp. 49-72. See also Q. SKINNER, *The Foundations of Modern Political Thought*, I, *The Renaissance*, Cambridge, Cambridge University Press, 1978 with the review written by A. BROWN, *Political Thought in Early Modern Europe*, «The Journal of Modern History», LIV (1982), pp. 47-55 and Q. SKINNER, *Visions of Politics*, Cambridge, Cambridge University Press, 2002, with the review by J. Kirshner, «Renaissance Quarterly», LVII (2004), pp. 264-268.

²⁹ M. ISNARDI PARENTE, *Introduzione* in JEAN BODIN, *I sei libri dello Stato*, I, Turin, Utet, 1964, pp. 11-100.

³⁰ P. CARTA, *Les exilés italiens et l'anti-machiavélisme français au XVI^e siècle*, in *La République en exil (XV^e - XVI^e siècles)*, ed. by P. Carta and L. De Los Santos, «Laboratoire italien», 3 (2002), pp. 93-117, Italian transl. *I fuorusciti italiani e l'antimachiavellismo francese del '500*, «Il pensiero politico», XXXVI (2003), pp. 213-238.

³¹ F. CALASSO, *Bartolismo*, in *Enciclopedia del diritto*, V, Milan, Giuffrè, 1959, pp. 71-74, and *Umanesimo giuridico*, in ID., *Introduzione al diritto comune*, pp. 181-205.

³² D. R. KELLEY, *Jurisconsultus Perfectus: The Lawyer as Renaissance Man*, p. 88.

³³ R. G. WITT, *Hercules at the Crossroads. The Life, Works, and Thought of Coluccio Salutati*, Durham, Duke University Press, 1983; and for a review see R. BLACK, *The Political Thought of the Florentine Chancellors*, «The Historical Journal», XXIX (1986), pp. 991-1003; A. BROWN, *Florence, Renaissance and Early Modern State: Reappraisals*, «The Journal of Modern History», LVI (1984), pp. 285-300. See also the old work by D. MARZI, *La cancelleria della Repubblica fiorentina*, Rocca San Casciano, Cappelli, 1910 (reprinted Firenze, Le Lettere, 1987).

³⁴ For the Justinian's *Preface to the Institutes* («Imperatoriam maiestatem non solum armis decoratam, sed etiam legibus oportet esse armatam, ut utrumque tempus, et bellorum et pacis, recte possit gubernari») as a source for Machiavelli's «iustizia et armi» see NICCOLÒ MACHIAVELLI, *The Prince*, ed. by L. A. Burd, Oxford, The Clarendon Press, 1891 (reprinted Oxford University Press, 1968), pp. 253-254 and D. QUAGLIONI, *Machiavelli e la lingua della giurisprudenza*. An attempt to study the legal library of Bernardo in connection with Niccolo's ideas can be found in C. GINZBURG, *Machiavelli, l'eccezione e la regola. Linee di una ricerca in corso*, «Quaderni Storici», CXII (2003), pp. 195-213. See now L. SARTORELLO, *Le due repubbliche. Bartolo e Machiavelli in un dialogo inedito di Francesco Sansovino. Con l'edizione del Dialogo della pratica ragione*, Firenze, CET, 2010.

³⁵ M. P. GILMORE, *Humanists and Jurists*, p. 26.

³⁶ J. M. NAJEMY, *Between Friends. Discourses of Power and Desire in the Machiavelli-Vettori Letters of 1513-1515*, Princeton, Princeton University Press, 1993.

³⁷ F. GILBERT, *Machiavelli and Guicciardini*, «Journal of the Warburg Institute», II (1939), pp. 263-266.

³⁸ *Ibid.*, p. 263.

³⁹ NICCOLÒ MACHIAVELLI, *Lettere a Francesco Vettori e Francesco Guicciardini*, ed. by G. Inglese, Milan, Rizzoli, 1989, p. 289 (transl. in *Machiavelli and his Friends*, ed. by J. B. Atkinson and D. Sices, DeKalb, Northern Illinois University Press, 1996, pp. 336-337). FRANCESCO GUICCIARDINI, *Storia d'Italia*, X, 8, ed. by S. Seidel Menchi, Torino, Einaudi, 1971, p. 998: «[...] Procedendo con queste incertitudini, mandorono, con dispiacere grande del re di Francia, al re d'Aragona ambasciadore Francesco Guicciardini, quello che scrisse questa istoria, dottore di legge, ancora tanto giovane che per l'età era, secondo le leggi della patria, inabile a esercitare qualunque magistrato; e nondimeno non gli dettono commissioni tali che alleggerissimo in parte alcuna la mala volontà de' confederati».

⁴⁰ P. F. GRENDLER, *The Universities of Italian Renaissance*, Baltimore and London, Johns Hopkins University Press, 2002, pp. 148-150. On Guicciardini's legal training and career see R. RIDOLFI, *The Life of Francesco Guicciardini*, translated from the Italian by C. Grayson, New York, Knopf, 1968; L. MARTINES, *Lawyers and Statecraft in Renaissance Florence*, pp. 80-81; O. CAVALLAR, *Guicciardini giurista. I ricordi degli onorari*, Milan, Giuffrè, 1988; ID., *Francesco Guicciardini and the 'Pisan Crisis': Logic and Discourses*, «The Journal of Modern History», LXV (1993), pp. 245-285; J. KIRSHNER, *Custom, Customary Law & Ius Comune in Francesco Guicciardini*, in *Bologna nell'età di Carlo V e Guicciardini*, ed. by E. Pasquini and P. Prodi, Bologna, Il Mulino, 2002, pp. 151-179; D. QUAGLIONI, *Politica e diritto in Guicciardini*, *ibid.*, pp. 181-195; P. CARTA, *Guicciardini scettico?*, *ibid.*, pp. 265-281. But see also FRANCESCO GUICCIARDINI, *Le lettere*, ed. by P. Jodogne, Rome, Istituto Storico Italiano per l'Età Moderna e Contemporanea, 1986-2008 and *Francesco Guicciardini. Tra ragione e inquietudine*, Atti del Convegno internazionale di Liège, 17-18 febbraio 2004, ed. by P. Moreno and G. Palumbo, Geneva, Droz, 2005.

⁴¹ For a definition of «ruling class» in Florence see now A. MOLHO, *Marriage Alliance in Late Medieval Florence*, Cambridge-Massachusetts-London-England, 1994, in part. pp. 193-237 and L. MARTINES, *The Social World of the Florentine Humanists 1390-1460*, Princeton, Princeton University Press, 1963, pp. 18-84.

⁴² A. MOLHO, *Marriage Alliance*, pp. 198-200; R. GOLDTHWAITE, *Private Wealth in Renaissance Florence: A Study of Four Families*, Princeton, Princeton University Press, 1968, pp. 109-155.

⁴³ FRANCESCO GUICCIARDINI, *Ricordanze*, in ID., *Selected Writings*, ed. by C. Grayson and transl. by M. Grayson, London, Oxford University Press, 1965, p. 129.

⁴⁴ D. R. KELLEY, *Jurisconsultus Perfectus: The Lawyer as Renaissance Man*, p. 91; IOANNES BAPTISTAE DE GAZALUPIS, *Modus studendi in utroque iure*, in SEBASTIAN BRANT, *Titulorum omnium iuris tam civilis quam canonici expositiones*, Venetiis, Apud Cominum de Tridino Montisferrati, MDLV, ff. 186r-187r. On Caccialupi see now A. FRIGERIO, *Umanesimo del diritto: il «De modo in iure studendi» di Giovanni Battista Caccialupi (1464)*, «Annali dell'Istituto Storico Italo-Germanico in Trento», XXX (2004), pp. 35-48.

⁴⁵ L. MARTINES, *Lawyers and Statecraft in Renaissance Florence*, pp. 6-7.

⁴⁶ O. CAVALLAR, *Il tiranno, i 'dubia' del giudice, e i 'consilia' dei giuristi*, «Archivio Storico Italiano», CLV (1997), Disp. II-III, pp. 265-345; ID., *Lo «stare fermo a bottega» del Guicciardini: giuristi consulenti, procuratori e notai nel Rinascimento*, in *Consilia im späten Mittelalter. Zum historischen Aussage-wert einer Quellengattung*, ed. by I. Baumgärtner, Sigmaringen 1995 (Studi, 13. Schriftenreihe des Deutschen Studienzentrums in Venedig), pp. pp. 113-144; ID., *I consulenti e il caso dei Pazzi: Consilia ai margini della restitutio in integrum*, in *Legal Consulting in the Civil Law Tradition*, ed. by M. Ascheri, I. Baumgärtner, J. Kirshner, Berkeley, Robbins Collection, 1999, pp. 319-362; ID., *Una figura di bandito in un comunicato colloquio di Guicciardini*, in *Bologna nell'età di Carlo V e Guicciardini*, pp. 109-150; ID., «Persuadere qui iuris peritiam non profitentur». *Legittima difesa, omicidio e contumacia in alcuni consulti di Francesco Guicciardini*, «Rivista internazionale di diritto comune», XVII (2006), pp. 161-250; see also J. KIRSHNER, *Consilia as Authority in Late Medieval Italy: The Case of Florence*, in *Legal Consulting in the Civil Law Tradition*, pp. 107-140.

⁴⁷ L. DE LOS SANTOS, *Introduction*, in FRANCESCO GUICCIARDINI, *Considérations à propos des Discours de Machiavel sur la première décade de Tite-Live*, traduction et présentation de L. De Los Santos, Paris, L'Harmattan, 1997, p. 9.

⁴⁸ FRANCESCO GUICCIARDINI, *Ricordi. Maxims and Reflections*, transl. by M. Domandi, introduction by N. Rubinstein, Philadelphia, University of Pennsylvania Press, 1992⁴, p. 69.

⁴⁹ *Ibid.*, p. 71.

⁵⁰ É. PICOT, *Les Italiens en France aux XVI^e siècles*, Bordeaux, Gounouilhou, 1918, p. 275: «Le principal ouvrage de Decio, son traité *De regulis Juris*, devint en quelque sorte classique».

⁵¹ D. 50, 17, 1. PHILIPPUS DECIUS, *De regulis iuris...*, Venetiis, Apud Petrum Marinellum, 1585, f. 3v. On the *regulae iuris*, see B. BRUGI, *Le «regulae iuris» dei giureconsulti romani*, in *Studi filosofico-giuridici dedicati a Giorgio Del Vecchio*, I, Modena, Società tipografica modenese, 1930, pp. 38-42; P. STEIN, *Regulae Iuris: From Juristic Rules to Legal Maxims*, Edinburgh, University Press, 1966; G. KISCH, *Gestalten und Probleme aus Humanismus und Jurisprudenz*, pp. 152-158.

⁵² Domandi didn't consider the manuscript A, so for this *ricordo* I used the critical edition FRANCESCO GUICCIARDINI, *Ricordi*, ed. by R. Spongano, Firenze, Sansoni, 1951, p. 11. But see also the ricordo B 35 in FRANCESCO GUICCIARDINI, *Ricordi. Maxims and Reflections*, p. 105: «These *ricordi* are rules that can be written in books. But particular cases have different circumstances and must be treated differently. Such cases can hardly be written anywhere but in the book of discretion». This was a question even for the first editors of the *Ricordi*, among them the Florentine exile Jacopo Corbinelli and the polygraph Francesco Sansovino.

⁵³ ID., *Ricordi. Maxims and Reflections*, p. 42.

⁵⁴ NICCOLÒ MACHIAVELLI, *Opere*, II, ed. by C. Vivanti, Turin, Einaudi, 1999, pp. 377-378.

⁵⁵ D. MAFFEI, *Gli inizi dell'umanesimo giuridico*, p. 35.

⁵⁶ PHILIPPUS DECIUS, *Consiliorum, siue Responsorum praestantissimi iurisconsulti Philippi Decii Mediolanensis*, I, Venetiis, pro Societate ad signum Aquilae, Hyeronimus Polus excudebat, 1581, c. CLXX, f. 182r; ANDREAS ALCIATIUS, *Responsa*, Lugduni, Petrus Fradin excudebat, 1561, c. 674, f. 674r. We have to say that Guicciardini uses the expression «new and unusual» («per essere cosa nuova ed insolita») referring to Machiavelli and the militia in his *Storie fiorentine*, ed. by M. Domandi, New York, Harper, 1970, p. 256. See the *Preface* of Machiavelli's *Discourses on Livy*, p. 15: «Although the envious nature of men has always made it no less perilous to discover new methods and institutions than to search for unknown lands and seas, since men are more ready to blame than to praise the actions of others, nevertheless... I have resolved to enter upon a path still untrodden».

⁵⁷ FRANCESCO GUICCIARDINI, *Ricordi. Maxims and Reflections*, 69-70.

⁵⁸ *Ibid.*, p. 69.

⁵⁹ GIOVANNI BERTACCHINI, *Repertorium juris utriusque*, Lyon, J. Liber, 1499, v. «Arbitrium», ff. 72r-73r and v. «Discretio», f. 291v. See M. MECCARELLI, *Arbitrium. Un aspetto sistematico degli ordinamenti giuridici in età di diritto comune*, Milan, Giuffrè, 1998, pp. 3-22.

⁶⁰ GIROLAMO SAVONAROLA, *Prediche sopra l'Esodo*, I, ed. by P. G. Ricci, Rome, Belardetti, 1955, pp. 299-301.

⁶¹ Milan, Biblioteca Ambrosiana, ms. R 106 sup., c. 281r.

⁶² H. J. BERMAN, *Law and Revolution. The Formation of the Western Legal Tradition*, Cambridge Mass. and London, Harvard University Press, 1983; E. ROSENSTOCK-HUESSY, *Out of Revolution. Autobiography of Western Man*, New York, William Morrow and Co., 1938. See D. R. KELLEY, *Jurisconsultus Perfectus. The Lawyer as a Renaissance Man*, p. 102.