

# Corte Cassazione



## THE TRIAL OF BENITO MUSSOLINI



Moderatore | **Ye won Jung**

Presidente Della Corte | **Diego Garza**

Giudice | **Javier González**

Committee | **Corte Di Cassazione**

Case | **Mussolini's War Crimes**



### **\*Disclaimer\***

In this committee, there are going to be some sensible scenes regarding genocide, violence, and extreme xenophobic scenarios. Any comments made by the chair, secretariat, or witnesses aren't real and aren't their personal beliefs.

If you want to participate in this committee, the secretariat recommends to familiarize yourself with some legal terms that will be required to understand the flow of the debate.

Any information used on the court needs to be until August of 1943 after the capture of Benito Mussolini. If any delegate of the court uses information after this time, they will receive a written warning (some information will be skipped for the flow of the debate).

### **I. Letter to Delegates**

Dear members of the committee,

I am pleased to extend a warm welcome to SPISMUN 2024. Let me first give you my name. Ye won Jung here, and I'm honored to take on as the Corte Suprema de Cassazione moderator, and you'll be part of the Corte Suprema during the event. As the moderator, it is my sacred duty to ensure that the proceedings of SPISMUN 2024 run smoothly and effectively. I am confident that with your participation and expertise, we will have fruitful discussions and make significant progress toward finding solutions to the global challenges we face today.

The committee may seem a little bit complicated, but remember, you are not alone in this journey. The committee is composed of talented individuals who are also eager to learn and contribute. Together, we can navigate the complexities and support each other in achieving

our goals. Trust in your abilities and embrace the challenges ahead, knowing that growth and success await you.

I'm dedicated to making sure that every member of the committee has a successful and worthwhile experience. I urge you to participate in insightful conversations, share unique viewpoints, and try to develop creative solutions to the current global difficulties during this conference. Let's take advantage of this chance to promote collaboration and create a better future for our planet together.

Sincere regards,

Your moderator Ye won Jung

## **I. Court Overview**

The Supreme Court of Cassazione, also known as the Corte Suprema di Cassazione, serves as Italy's highest court of appeal, playing a pivotal role in upholding legal consistency and coherence across the nation. Its primary function involves reviewing lower court decisions to guarantee the accurate interpretation and application of the law, thus fostering the unity and uniformity of Italy's national objective law.

One of the fundamental features of its essentially homophilic and unifying mission, aimed at ensuring certainty in the interpretation of the law (in addition to issuing judgments of third instance) is that, in principle, the provisions in force do not allow the Court of Cassazione to know the facts of a case except when they result from the acts already acquired in the proceedings in the stages preceding the trial and only to the extent that it is necessary to know them to assess the remedies that the law allows to use to justify an appeal to the Court.

The appeal to the Court of Cassazione may be filed against the measures issued by the ordinary courts in the level of appeal or the single degree: the reasons set out to support the appeal may be, in civil matters, the violation of material law (*errores in iudicando*) or procedural law (*errores in procedendo*), the defects of the grounds (lack, insufficiency or contradiction) of the judgment under appeal; or, again, the grounds relating to the jurisdiction. A similar regime is provided for the appeal to the Court of Cassazione in criminal matters.



When the Court detects one of the aforementioned defects, it has the power and duty not only to overturn the decision of the lower court but also to state the principle of law that the contested measure must observe: a principle to which even the referring court will not be able to comply when it proceeds to the review of the facts relating to the case. The principles established by the Court of Cassazione are, on the other hand, not binding on judges, in general, when they have to decide different cases, concerning which the decision of the Supreme Court can still be considered an influential "precedent". Judges in lower jurisdictions comply with the decisions of the Court of Cassazione in the majority of cases.

According to Article 111 of the Constitution, every citizen can appeal to the Court of Cassazione for violation of the law against any measure of the judicial authority, without having to make any appeal in civil or criminal matters, or against any measure that limits personal freedom.

The Court of Cassazione is also assigned the task of establishing jurisdiction (i.e., of indicating, when a conflict is created between the ordinary and the special judge, Italian or foreign, who has the power to deal with the case) and jurisdiction (i.e., to resolve a conflict between two judges of merit). The Court of Cassazione also performs non-judicial functions in the field of legislative elections and popular referendums for the repeal of laws.

## II. Case Overview

### **Benito Mussolini**

Benito Mussolini, the Italian dictator, orchestrated a series of heinous acts during his tenure in power, which stained Italy's reputation on the global stage. These atrocities and war crimes are just a fraction of the numerous transgressions committed during his regime.

The emergence of totalitarianism in interwar Europe, particularly fascism,



*Benito Mussolini. (1965). Discogs.*

was a consequence of the post-World War I (1914-1918) upheaval and the exacerbated crisis of liberal democracies, compounded by the economic crash of 1929. This phenomenon found its initial expression in the form of fascism, a movement stemming from the fasci di combattimento established in 1919 by Benito Mussolini. Mussolini ascended to power in 1922, subsequently imposing a single-party dictatorship. The Italian fascist regime would go on to become Adolf Hitler's primary ally in World War II (1939-1945), ultimately suffering the same fate following their defeat.

Benito Mussolini's early life was characterized by humble beginnings, with his father working as a blacksmith and his mother as a schoolteacher. Mussolini initially pursued a career in education but frequently alternated between teaching and embarking on numerous journeys. He encountered trouble with authorities early on, getting expelled from both Switzerland and Austria due to his involvement with irredentist circles.

During his initial foray into politics, Mussolini aligned himself with the Italian Socialist Party, particularly its radical faction, drawn to the revolutionary aspects of socialism rather than its reformist principles. In 1910, he assumed the role of secretary for the provincial federation of Forlì, and shortly thereafter, he became the editor of the weekly publication "La Lotta di Classe" (The Class Struggle). Mussolini's prominence within the party grew when the radical faction triumphed over the reformists at the socialist congress held in Reggio nell'Emilia in 1912. Capitalizing on this development, Mussolini seized control of the Milanese newspaper "Avanti," which served as the party's official mouthpiece. Nevertheless, his staunchly radical views on the armed conflicts during the "red week" of 1914 generated apprehension among his fellow socialists.

The schism between Mussolini and the socialists deepened with the party's declaration of neutrality, opposing Italy's involvement in World War I, which began in August 1914. Mussolini, previously a fervent opponent of Italy's participation in the Libyan War and the Great War, underwent a dramatic transformation and ardently advocated for a bellicose stance. This abrupt about-face led to his expulsion from the Socialist Party. In November of the same year, he founded the newspaper "Il Popolo d'Italia."

## **Invasion of Ethiopia:**

On October 3, 1935, Ethiopia, one of the two independent African nations at the time, faced an invasion by Fascist Italy under the leadership of Benito Mussolini. This invasion led to a series of egregious atrocities committed by the Italian forces, including the use of poisonous gas, aerial bombardment, flame throwers, and the establishment of concentration camps within the independent African state.



March in support of Ethiopia 1935. (2023).  
Zinn Education Project.

The international community, particularly people of African descent worldwide, expressed unified outrage in response to these atrocities. The League of Nations, a precursor to the United Nations, faced significant criticism for its perceived inaction during this crisis.

From various corners of the globe, including Kingston, Johannesburg, Detroit, Ghana, Port-of-Spain, and Paris, Black men and women fervently offered their support and willingness to fight in defense of Ethiopia.

In his work, "The Forgotten Fight Against Fascism," William Katz meticulously describes the organized response by African Americans in the United States during this tumultuous period. Even amidst the challenging backdrop of the worldwide Great Depression, citizens in the United States were deeply moved to aid Ethiopia. Black men across the country were trained for potential military action, with approximately 8,000 in Chicago, 5,000 in Detroit, and 2,000 in Kansas City.

Notably, in New York City, where a thousand men participated in military drills, Nurse Salaria Kea of Harlem Hospital orchestrated fundraising efforts that enabled the provision of a 75-bed hospital and two tons of medical supplies to Ethiopia.

Prominent figures such as W. E. B. Du Bois and Paul Robeson took part in addressing a "Harlem League Against War and Fascism" rally, underscoring the importance of the situation. A. Philip Randolph drew a connection between Mussolini's invasion of Ethiopia and the oppressive conditions faced by Black people in the United States.



A pivotal moment in this movement was the "People's March for Ethiopia" held in Harlem, which drew a staggering 25,000 African Americans and anti-fascist Italian Americans in a display of solidarity against fascism and in support of Ethiopia. This chapter in history highlights the significant role played by African Americans in responding to the invasion and atrocities in Ethiopia during this critical period.

### **Massacre of civilians in Libya:**

To make it easier for Italians to settle in Libya, the Italian government launched a massive development program in the 1920s and 1930s that involved building cities, highways, and agricultural colonies. Benito Mussolini, the head of the Fascist movement, launched a larger project known as "demographic colonization" in 1935, which included this audacious attempt. By the time the Second World War broke out, some 150,000 Italians had settled in Libya, making up almost 5% of the whole population.

These initiatives received significant funding from the Italian colonial government, which wanted to turn Libya into a prosperous Italian colony. Along with the creation of new communities, infrastructural development, and agricultural promotion were also part of this project. By attempting to maximize Libya's agricultural production, these programs supported Italian economic interests and made Italian colonialism easier.

However, during the 1941-1943 North Africa battles, the massive construction and settlement initiatives in Libya were severely hampered. During this time, control of the eastern Libyan province known as Cyrenaica changed hands three times; by the end of 1942, all Italian inhabitants had been forced to flee the area. Pastoralism replaced the rich landscapes that had been cultivated throughout the Italian colonial era, marking a dramatic reversal of the development efforts that had been made.

By contrast, some of the administrative and economic advancements that Italy had promoted were preserved in the Tripolitania area of western Libya. Nevertheless, Libya as a whole experienced population instability and economic destitution following World War II. The country was marked by underpopulation and separation into several sections, each with its own separate political, economic, and religious traditions. The Italian influence had drastically decreased.

Tripolitania, Cyrenaica, and Fezzan the three main areas of Libya evolved unique identities that reflected socioeconomic, cultural, and historical distinctions. As Libya attempted to reinterpret its national character and forge a new path toward political and economic stability, this fragmentation presented difficulties for the country in the years after the conflict. The aftermath of World War II and the effects of Italian colonialism were major factors in forming Libya's difficult path toward independence and future growth.

### **Collaboration with Nazi Germany**

During World War II, Adolf Hitler's Nazi Germany and Benito Mussolini, the head of Fascist Italy, collaborated extensively. The cooperation between the German and Italian regimes significantly influenced Italy's activities and foreign policy throughout the war.

An important turning point in their cooperation came when Italy formally joined forces with Nazi Germany and Imperial Japan in 1939 to form the Axis Powers. Motivated by common goals and interests, this alliance constituted a sizable military and political coalition.

When Italy launched an invasion of Greece from its bases in Albania in the fall of 1940, the Balkans Campaign came to pass. Following a string of military defeats and losses as a result of this action, Mussolini turned to Hitler for support. In response, in the spring of 1941, German forces were sent to support the Italian military's takeover of Greece and Yugoslavia.

Italy's main objective was to extend its colonial empire in North and East Africa, but after Hitler invaded the Soviet Union in June 1941, Mussolini felt obliged to send troops to the Eastern Front. To fight with the Germans, Italy sent a small contingent of soldiers to Russia, dubbed the Italian Expeditionary Corps. The Italian forces' overall contribution to the war effort was, however, very little, and they were not as successful as their German counterparts.

Targeting the Jewish community in Italy, the Fascist administration in Italy implemented antisemitic laws in 1938 as a result of pressure from Nazi Germany and their joint efforts. These regulations represented a dramatic change in Italy's attitude toward its Jewish inhabitants and were in line with Nazi anti-Semitic policies.

Mussolini's authority grew more dependent on Hitler's advice and backing as a result of Italy's military setbacks and the need for German help to put an end to internal instability. Mussolini was taken prisoner in 1943 and placed in charge of the Italian Social Republic, a puppet state ruled by Germany, after being saved by German forces.



Following Italy's unconditional capitulation to the Allies in September 1943, German forces occupied northern and central Italy, where they exerted limited influence over Mussolini's regime. Mussolini's cooperation with Nazi Germany had serious consequences for Italy during the war, including its internal strife and military losses. Under German occupation, his leadership was essentially reduced to that of a puppet monarch, and Italy paid a heavy price for his alliance with Hitler.

### **Use of violence against political opponents**

Benito Mussolini's fascist administration in Italy used a campaign of violence to repress its political opponents between 1926 and 1943. Thousands of Italians were arrested and deported in this operation, taking them to isolated southern villages called "confino di polizia" and island internment colonies. This thorough examination shows that political violence was a key weapon of control, refuting the popular belief that Mussolini's regime lacked an organized approach to mass repression.

Deeply ingrained in Italian society, the fascist regime used a wide range of repressive tactics, including physical abuse, imprisonment, economic hardship, intimidation, and discrimination. It pushed people to come clean about one another, institutionalizing defamatory acts to fortify allegiance and brutally silence dissent.

The 'confino di polizia' system exhibited notable fluctuations. Leading opponents of fascism were housed in more comfortable quarters, while others, primarily from lower socioeconomic backgrounds, suffered in appalling conditions. Detainee families also experienced financial hardship. Repression's targets grew over time, covering a wide spectrum of actions from homosexuality to disapproval of Mussolini. The implementation of coercive programs, which frequently targeted vulnerable or feared groups within communities, relied heavily on local involvement.

Repression was used to further the political and ideological goals of fascism while also drawing followers and scaring opponents. It also strengthened the regime's hold on power. Essentially, this story emphasizes the systematic use of violence by the Fascist dictatorship, refuting the idea that the rule was devoid of widespread repression and drawing comparisons with the repression that occurred under the Nazi and Soviet regimes in the same historical period.

Fascism under Mussolini's direction was marked by a charismatic ruler with unrestricted power, corporatism, strong nationalism, militarism, and aspirations for imperialism. Suppressing individual preferences in favor of the state's "common will," it placed a strong emphasis on self-sacrifice, individual rights being subjugated, and unswerving obedience. The formation of employer groups, known as "corporations," and state-run labor unions aimed to create a balance between capitalism and socialism that frequently favored the working class. In 1929, Mussolini established the Catholic Church as the official state religion, forging a relationship with it as well. Public construction projects that reduced unemployment during the Great Depression contributed to his meteoric rise in popularity. However, anti-Semitic policies were put in place during Mussolini's late 1930s alliance with Adolf Hitler, and Italy did little to stop the Nazi deportation of Italians during World War II.

### **Bombing of civilian targets**

Benito Mussolini led Italy as one of the Axis Powers during World War II, along with Imperial Japan and Nazi Germany. Throughout the war, the Italian troops participated in several military campaigns and operations, some of which entailed the bombing of civilian targets, such as cities and towns in Allied countries, despite not being as strong or effective as their German partners.

An important illustration of one of these bombing incidents is the tragedy that took place in December 1943 in the Greek village of Kalavryta. This incident happened during the Axis occupation of Greece, a time when the occupying forces were facing guerrilla warfare and resistance activities. Italian forces, notably those from the 4th Alpini Division, carried out a vicious and destructive counterattack in response to an attack on an Italian convoy by Greek partisans.

Around 500 civilians, including women, children, and the elderly, were killed in the massacre. The Italian forces not only executed innocent townspeople but also set fire to many buildings, leaving Kalavryta in ruins. This horrifying event is remembered as one of the darkest moments in the history of World War II in Greece and serves as a stark reminder of the civilian suffering that often occurred during the conflict.

Throughout World War II, civilian populations were frequently caught in the crossfire, the Kalavryta atrocity being only one example. Throughout the conflict, there were many bombs and other crimes committed against civilians, frequently with disastrous results for innocent bystanders. These deeds highlight the human cost and the savagery of war, and they continue to be a dark chapter in the history of World War II and the fallout from totalitarian governments.

### III. Legal Overview of the case

**Ethiopian Invasion:** The invasion of Ethiopia is a legal matter since it violates important rules of international law. According to the United Nations Charter and the Kellogg-Briand Pact, aggression is forbidden. The use of chemical weapons by Mussolini and the construction of concentration camps were against international humanitarian law, which protects civilian rights in times of armed war. The significance of holding people and governments responsible for acts of aggression and war crimes is demonstrated by this case.

**Massacre of Civilians in Libya:** Because the Italian government's activities in Libya give rise to concerns regarding the rights of indigenous populations in colonial territories, they are legally significant. These acts went against the cornerstones of international law, which are the right to self-determination and the proscription of colonialism. According to international law, forced relocation, financial hardship, and community separation are all abuses of human rights. This case highlights the significance of investigating potential conflicts between colonial practices and international law rules.

**Collaboration with Nazi Germany:** Because of the legal ramifications of such cooperation during an armed conflict, Mussolini's cooperation with Nazi Germany is a subject of legal proceedings. Adopting anti-Semitic laws and fighting alongside Nazi Germany in military conflicts could be considered complicity in crimes against humanity and war crimes. International law emphasizes the significance of state behavior during warfare and post-war justice, demanding accountability for such activities.

**Use of Violence Against Political Opponents:** Because it entails abuses of human rights, the systematic use of violence against political opponents in Italy is a legal matter. The regime's use of physical abuse, incarceration, economic hardship, and intimidation violated rights that have been recognized globally, including freedom from torture, the right to life, and independence. The need to hold states accountable for violations of human rights and the function of international human rights law in combating state repression are both highlighted by this case.

**Bombing of Civilian Targets:** Because it violates international humanitarian law, bombing civilian targets, like the Kalavryta atrocity, is subject to judicial action. The Geneva Conventions and customary international law forbid deliberate assaults against civilians and civilian infrastructure. This case emphasizes the necessity of recognizing the difference between non-combatants and lawful military targets during hostilities, as well as the legal obligation to defend civilians during hostilities.



#### IV. Evidence of the Case

**Invasion of Ethiopia:** The 1935 invasion of Ethiopia was directly influenced by Benito Mussolini's leadership while he was the dictator of Italy. Mussolini gave the command for the deployment of cruel methods by the Italian military, such as the creation of concentration camps, the use of toxic gas, and aerial bombardment. The League of Nations came under fire for what was seen as its perceived silence in the face of these atrocities as a result of its aggressive expansionist agenda, which caused significant global indignation and condemnation. African Americans in the US mobilized in support of Ethiopia in direct response to Mussolini's aggressions, which made their support necessary.

**Libyan Massacre:** Mussolini led the implementation of policies that supported Italian colonization efforts in Libya in the 1920s and 1930s. Mussolini oversaw the funding and backing of these initiatives by the Italian government, which resulted in the establishment of sizable Italian communities in Libya. However, Italy's entry into the war under Mussolini's command was a major factor in the disruption of these programs during World War II, which led to economic difficulties and unstable populations in post-war Libya.

**Collaboration with Nazi Germany:** Italy's foreign policy and military operations were greatly influenced by Mussolini's participation in the country's alliance with Nazi Germany during World War II. Based on the same objectives and interests, Italy formally allied with Nazi Germany and Imperial Japan to establish the Axis Powers. Mussolini's decision to invade Greece and dispatch Italian forces to the Eastern Front influenced the wartime actions of the Axis Powers. Mussolini's leadership directly led to the fallout from these measures, which included Italy's military defeats and the loss of its colonial empire.

**Use of violence:** Mussolini's government routinely used repression and acts of violence against political opponents. As Italy's dictator, Mussolini exercised ultimate power and was personally in charge of the repression campaign, which was designed to quell opposition and uphold authority. His regime's use of violence and intimidation was crucial to its rise to power and propagation of fascist ideology, which was marked by a strong sense of nationalism, militarism, corporatism, and aspirations toward empire.

**Fascist ideology:** It is indisputable that Mussolini had a direct impact on both Italy's internal and foreign policies. The fascist ideology and policies that defined his dictatorship were created by him. Robust nationalism, militarism, corporatism, and imperialism were all encouraged under his leadership. Mussolini's impact was seen in his choice to side with Nazi Germany and enact anti-Semitic laws during World War II.

**Bombing of civilian targets:** Mussolini oversaw the decision to conduct military operations, including the bombing of civilian targets, even though Italian forces were not as effective as their German counterparts. One terrible example of the suffering suffered by civilians throughout the fight is the 1943 bombardment of the Greek town of Kalavryta, which claimed civilian lives. The decisions and leadership of Mussolini during World War II directly led to these measures.

## V. Constituents of the Court

**Presidente della corte:** The Presidente della Corte is going to lead the corte explaining the case and deciding the verdict of the case, too is going to register the evidence of the camera chiusa and the camera aperta

**Moderatore:** The Moderatore is going to moderate the camera chiusa and the camera aperta, too will help to make the verdict of the case.

**Testimone:** this person is going to establish his or her testimony about the case and is going to give more context to the court.

**Persecutori:** The persecutori is part of the court that will try to imprison the accused and make him pay for his crimes.

**Imputato:** The imputato is going to try to defend the accused imprisonment and try to demonstrate the accused innocence.

## VI. Objections

**Misleading:** an ambiguous, misleading, confusing, vague, or unintelligible question is a question without a clear, obvious, succinct, factual answer.

**Argumentative:** Parties are not permitted to be argumentative with a witness in any given trial. It is not permitted to repeatedly ask the same question of a witness, nor is it allowed to directly dispute what the witness says in the manner of an argument.

**Asked and Answered:** Once a question has been asked and answered, it is generally not allowed for that question to be asked again. If the question is asked again, then the opposing party might object based on the question has been asked and answered.

**Speculation:** A speculative question or speculative evidence is normally disallowed from a trial because it is not based on fact. Speculation arises when a witness is asked to answer a question, to which he or she does not know the immediate, factual answer, or when a witness provides an answer, which is not based on immediate facts of his or her experience.

**Hearsay:** When a party objects to evidence based on hearsay, the other party is objecting to a type of evidence that is related secondhand, from questions asked or answers given outside of the court.

**Incompetent:** A party might raise an objection based on grounds of incompetence if a witness was not considered to be competent for providing answers to questions. A witness might be considered incompetent, if he or she were not mentally competent and stable, or if he or she were particularly young, for example.

**Inflammatory:** An inflammatory statement or question is normally grounds for an objection and the disallowing of the question or the evidence, as it is manipulative and irrelevant.

**Leading Questions:** Leading questions are questions, that are designed to suggest an answer within the question. Leading questions are often “yes or no” questions, though not all “yes or no” questions could be accused of leading the witness.

**Privilege:** Objections based on privilege are objections based on the notion that a witness does not have to give testimony or evidence in certain areas if that witness holds privilege of particular types.

**Narrative:** An objection to questions that might result in narration on the part of the witness is allowed because narrative answers do not allow opposing counsel to object to questions or evidence before the introduction of those questions or evidence.



## VII. Closing Statement

Beloved Delegates,

As your moderator for SPISMUN2024 in the Corte di Cassazione committee, I am eager to facilitate a valuable and enriching experience. While the intricacies of the committee may appear daunting, rest assured that you are not embarking on this journey in solitude. The assembly comprises adept individuals, all equally ardent about learning and contributing.

Collectively, we can traverse the intricacies, providing mutual support to realize our objectives. Have confidence in your capabilities, embrace the forthcoming challenges, and recognize that both growth and triumph await. Let the discussions be insightful and collaborative, and contribute to the success of our committee.

Best regards,

Ye won Jung

Good luck delegates on this new adventure that you're going to take on and welcome to SPIS MUN 2024. See you in April!

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