

Matucci, Giuditta

Training secondary-school teachers and the position of the minor. Reflections from a juridical-constitutional perspective

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Kulturen der Lehrerbildung in der Sekundarstufe in Italien und Deutschland

Nationale Formate und ‚cross culture‘

Casale / Windheuser / Ferrari / Morandi

**Kulturen der Lehrerbildung in der Sekundarstufe
in Italien und Deutschland**

Historische Bildungsforschung

herausgegeben von

Rita Casale, Ingrid Lohmann und Eva Matthes

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Inhaltsverzeichnis

Einführung

Nationale Fälle und <i>cross culture</i> in der Lehrerbildung <i>Rita Casale, Monica Ferrari, Matteo Morandi und Jeannette Windheuser</i>	7
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Italien

Habsburg Legislation on the Training of Elementary and <i>Ginnasio-Liceo</i> (Secondary) Teachers and its Implementation in the Italian Territories across the 18 th and 19 th Centuries <i>Simonetta Polenghi</i>	19
The <i>Scuola Normale Superiore di Pisa</i> : between French Model and Autonomous Choices (1810-1923) <i>Paola Carlucci und Mauro Moretti</i>	33
Long-Term Issues in Secondary School Teacher Training in Italy (1862-2015) <i>Matteo Morandi</i>	51
Belgium as a Cultural Model for Building the Italian Secondary School and Training its Teachers (1860-1900) <i>Mara Donato di Paola</i>	64
An Atypical Path of Women Teachers Training, between the 19 th and 20 th Centuries: the <i>Istituti Superiori di Magistero femminile</i> (Higher Institutes of Teaching for Women) <i>Tiziana Pironi</i>	83
The Professor of Pedagogy and Italian Textbooks between the 19 th and the 20 th Centuries <i>Giuseppe Zago</i>	100
Pedagogy in the Training Experience of Italian Secondary School Teachers from SSIS to FIT (and beyond?) (1998-2019) <i>Monica Ferrari</i>	113
Training Secondary-School Teachers and the Position of the Minor. Reflections from a Juridical-Constitutional Perspective <i>Giuditta Matucci</i>	130

The Role of Pedagogy in the Initial Training of Teachers of the Italian Secondary School Today
Anna Bondioli, Maurizio Piseri und Donatella Savio138

Deutschland

Seminare – eine hybride Ausbildungsform (18. bis 19. Jahrhundert)
Sabine Reh und Joachim Scholz151

Gymnasiallehrer im Vormärz (1830-1848):
 Zwischen Wissenschaft und Lehrberuf
Margret Kraul163

Geisteswissenschaftliche Pädagogik und höhere Lehrerausbildung (1915-1960)
Eva Matthes177

Modernisierung durch Feminisierung? Zur Geschichte der Lehrerinnenbildung in Deutschland (19. und frühes 20. Jahrhundert)
Elke Kleinau191

Die Lehrerausbildung in der Bundesrepublik seit 1990: die Gründung der Schools of Education
Charlotte Röhner201

Die Entpädagogisierung der Lehrerbildung in der Bundesrepublik und die Entstehung der Bildungswissenschaft als Leitdisziplin in den 1990er Jahren
Rita Casale212

Zur Heterogenität des Lehramtsstudiums in Deutschland: Interaktionsanalysen universitärer Lehrkulturen (21. Jahrhundert)
Imke Kollmer, Hannes König, Thomas Wenzl und Andreas Wernet225

Sexuelle Bildung: Geschichtliche und curriculare Perspektiven in der Lehrer/innenbildung
Julia Kerstin Maria Siemoneit und Jeannette Windheuser244

Entwicklungen der Lehrerbildung in Deutschland
Jürgen Oelkers258

Autor/innenverzeichnis277

Training Secondary-School Teachers and the Position of the Minor.

Reflections from a Juridical-Constitutional Perspective¹

by *Giuditta Matucci*

1 The rationale for a juridical-constitutional approach

The topics of schools and teacher training, which have always been at the centre of pedagogical debates, touch on certain questions of great significance also in relation to the law, in particular constitutional law. While it is true that school and education are topics largely unexplored by the Italian Constitution, and that the work of the 'Assemblea Costituente' [Constituent Assembly] was almost entirely focused on the discussion regarding the relationship between public and private spheres in the administration of teaching, over time doctrine and case law have grasped the profoundly innovative scope of the principles expressed in the Constitution, highlighting those that could be defined as constitutional 'priorities'.²

The aim of this paper is to provide an overview of the needs of secondary schools from a juridical-constitutional perspective. Secondary school is of a high rank and, as such, is aimed at the acquisition of tools and skills functional to entering the professional world of work. At the same time, it is an indispensable link between civil and political society and, therefore, is an institution called on to 'effectively' engage with the many forms of diversity present in society in order to prepare students from all backgrounds for entry into the community.³ This is, first and foremost, the role that the school is called on to cover by our Constitution, where it commits the Italian Republic and the institutions to 'removing the economic and social obstacles that, by effectively limiting the freedom and equality of citizens, impede the full development of human beings and the effective participation of all workers in the political, economic and social organisation of the country'.⁴

1 The translation of this essay was financed through research funding made available by the Ateneo Blue Sky Research Fund and awarded in 2017, following a competitive tender, by the University of Pavia to the project: 'Education for all and everybody. Oltre l'inclusione scolastica' (Principal Investigator Giuditta Matucci).

2 For a reconstruction of the constitutional dimension of the topics of school and education with respect to the work of the Constituent Assembly, see Crisafulli 1956, pp. 54ff.; Pototschnig 1973, pp. 96ff.; Cassese 1974, pp. 3614ff.; Cassese/Mura 1976, pp. 210ff.; Sandulli 2003, and Id. 2006, pp. 3305ff.; Fontana 2006, pp. 675ff.; Poggi 2006, pp. 699ff.; Camerlengo 2008, pp. 332ff.; Fracchia 2008; Ruggeri 2008, pp. 769ff.; Angelini/Benvenuti (eds.) 2014; Cortese (ed.) 2014, and Id. 2018, pp. 45ff.; Matucci/Rigano 2016; Falanga 2017; Iannuzzi 2018, pp. 220ff., and Benvenuti 2018, pp. 226ff.

3 On the school as a 'constitutional body', a fundamental link between civil and political society, see Calamandrei 1950, pp. 1ff. See also Crisafulli 1956, p. 55.

4 Such is the so-called principle of 'substantial' equality, established by art. 3, paragraph two of the Constitution, which adopts an apparently opposing but nevertheless complementary stance to the principle of 'formal' equality referred to in art. 3, paragraph one of the Constitution.

What, therefore, are the priority requirements for the construction of a school system with these characteristics? What are the implications deriving from the introduction into constitutional law of principles dedicated both explicitly and implicitly to this topic?

Vezió Crisafulli, in his well-known essay *La scuola nella Costituzione*, highlighted the existence of the ‘Scholastic Constitution’ and identified the vertical dual limit of the ordinary legislator: a ‘negative’ limit, arising from the prohibition to violate the relevant constitutional principles, and a ‘positive’ limit, represented by the obligation to implement them. This takes into account the preliminary requirement to build awareness of the scope of the constitutional principles on this matter.⁵

2 The inclusive dimension in schools and the constitutional protection of minors

The systematic reading of articles 2, 3, 34 and 38, last paragraph, of the Italian Constitution emphasises the accommodating and ‘inclusive’ dimension of school. The outlined framework espouses, on the one hand, the ‘personalist’ principle, focusing the actions and ultimate ‘objectives’ of public authorities on the person, and, on the other, the ‘solidarist’ principle, committing the Italian Republic, its institutions and communities to act to remove the inequalities that are a *de facto* reality of society. Thus the Constitution dictates a programme of development for the entire educational system,⁶ which has developed starting from the principle whereby ‘the school is open to ‘each’ and everyone’, regardless of their origins or position in life and, therefore, regardless of economic, linguistic, sociocultural and personal differences.

In this context, constitutional case law has contributed, over time, to the strengthening of the State’s commitment to promoting access to secondary and higher education, and to universities, by those who are disadvantaged (not only financially), this being a fundamental precondition for the full development of an individual’s personality and their effective participation in the political, economic and social life of the country.⁷

5 Cf. Crisafulli 1956, p. 60.

6 Cf. Pototschnig 1961, pp. 361ff.

7 See the ruling of the Constitutional Court on 8 June 1987, n. 215 in *Giurisprudenza costituzionale*, I, 6 (1987), pp. 1615ff., with notes by Belli. Proceeding on the basis whereby ‘from a scientific point of view, the concept of the [...] radical irrecoverability of persons with disabilities is now obsolete’, the Constitutional Court has observed that ‘participation in the educational process with non-disabled teachers and companions constitutes [...] a significant socialisation factor and can make a decisive contribution in stimulating the potential of the disadvantaged person to harness those psychological forces that serve to improve learning, communication and relational processes through the progressive reduction of constraints deriving from their disability’. ‘It is undeniable that the learning and socialisation needs that require attendance at school in order to be met do not disappear upon completion of compulsory education. Indeed, precisely because there are complex and delicate processes involved in which those with disabilities encounter specific difficulties, it is evident that the artificial interruption of the same, by removing one of the factors that favours personality development, risks the arrest, or even regression, of said development. It is equally undeniable that learning and integration at school are, in turn, functional to the full integration of the disabled person into society and the world of work. Likewise, the performance of professional activities more qualified than those attainable with a school-leaving certificate – merely indicating, therefore, completion of middle school – can favour a richer development of the potential of disadvantaged young people and therefore bring them closer to the goal of full social integration’ (paragraph 5 of ‘Considerato in diritto’).

If the guiding pedagogical principles include the principle of education for all, or rather the principle whereby everyone can learn and grow,⁸ then the inclusion and engagement dimension of school, outlined in the Constitution, calls for the pedagogical approach of the teacher also at the highest levels of education. This is undoubtedly justified during infancy, but equally in adolescence, when the student, still a minor, goes through a delicate phase in their psychological and physical development in which the construction of their personal identity and the focus on ‘interindividual’ differences is at the forefront of their experience.⁹

The pedagogical approach seems, therefore, essential in order to create a climate of listening and acceptance that is fundamental when addressing the complexities of this particular stage of individual growth. This is supported by the setting out in national and supranational legislation of the right of minors to be listened to, which is a fundamental vehicle through which they are able to assert their individual personality: it is a means of overcoming the intrinsic weakness of their situation¹⁰ to achieve complete self-realisation within the community.¹¹

Research conducted in recent years highlights the need for significant figures in the lives of minors, such as teachers and other educators, to have multidisciplinary training that takes into account the complexities of the situation of minors as persons whose personality is still ‘in development’, or rather as subjects that, despite pushing towards self-determination in their life choices, are still being formed. They therefore need to be protected and progressively guided along their journey towards adulthood and full entry into social life.¹²

The tension between such needs (autonomy/protection) reaches its peak during adolescence when minors are attending secondary school.¹³ In addition to cultural training, therefore, ped-

8 According to Meirieu 2007, pedagogy is based on the tension between two fundamental principles: the aforementioned principle of education for all, whereby everyone can learn and grow, and the principle of freedom, whereby a person cannot be forced to learn.

9 According to personality psychology, the ‘interindividual’ variables concern the similarities and differences between one person and another: see Caprara/Cervone 2003.

10 On the position of the minor as a ‘weak subject’, see Ainis 1999, pp. 25ff.

11 As already provided for by art. 12 of the New York Convention of 1989, which sets out the right of the child who is ‘capable of forming his or her own views’ and able ‘to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child’, and recognised by art. 24 of the European Charter of Fundamental Rights, said right has been progressively introduced into the fabric of the Italian regulatory framework. This began with questions related to family crises and child custody before becoming, following the filiation reform, a general provision, recognised in both administrative and procedural contexts (see articles 336 bis and 337 octies of the Italian Civil Code and art. 38 provisions enacting the Italian Civil Code). On this topic, see Matucci 2015, pp. 20ff. and pp. 329ff.

12 In the juridical debate, the idea according to which the minor possesses a ‘dual spirit’ – in that he or she is a person still ‘in development’ – is acknowledged by both the doctrine and case law. If for property rights there exists a distinction between holdership and exercise, in that whoever has legal capacity is the holder of the right but must in any case await attainment of the capacity to act in order to exercise it, this is not the case for the fundamental rights of the person: the schism between holdership and exercise would in fact entail a frustration of the rights themselves. The only limitation, and prerequisite, is represented by natural capacity or the capacity of discernment, in other words by the ability of the subject to think and act for him or herself. On the topic of age and the exercise of fundamental rights, see Santi Romano 1990, pp. 201ff.; Lavagna 1960, pp. 83ff.; Abbamonte 1967, pp. 92ff.; Biscaretti di Ruffia 1969, pp. 131ff.; Barile 1984, p. 29, and Caretti/Tarli Barbieri 2017, pp. 105f. See also Matucci 2015, spec. p. 5.

13 In adults as in children there are two kinds of indispensable evolutionary needs: the need for attachment and the need for independence. (See Bobbio 2007, pp. 112-113). For a more in-depth examination, including in the wider debate on the study of the growth and development stages of the child and the adolescent, see Freud 1970; Winnicott 1971, pp. 69ff.; Bowlby 1969/1973/1980; Erikson 1968, and Id. 1982.

agogical and didactic training (with particular attention to special needs education) along with socio-relational training (with regard in particular to psychology) are essential.¹⁴ Pedagogical training provides a fundamental basis on which to construct a profile of the teacher and an approach based on listening to and acceptance of each and everyone in the classroom. This favours a 'positive' and 'proactive' approach, with regard to the individual, highlighting resources and potential within the group. Awareness of the psychological, individual and group dynamics can enrich the perception of the teacher who can thus better identify genuinely effective educational strategies.

3 The training of secondary-school teachers in light of constitutional principles

If the goal is to build a school system that is welcoming and inclusive, which is consistent with the principles set out in our Constitution, it is essential to invest in the training of teachers 'at all levels'. This is undoubtedly true also for secondary schools.

The position of particular weakness or, if preferred, the entirely unique position of the minor, who has fundamental rights but nevertheless requires an adult to act first in an intermediary and later in a support role in their journey towards the point at which they will independently exercise said rights, presupposes that all those destined to accompany the minor as they grow and learn are equipped with all the necessary skills. This implies that the training route that teachers undertake in order to become secondary-school teachers ought not to be focused solely on the curriculum but should also be underpinned by the acquisition of sufficient awareness at a pedagogical and socio-relational level.

In the innovations introduced in recent years, above all the so-called 'Good School' reform,¹⁵ there is, in fact, a grave underlying inconsistency: notwithstanding the fact that it has been known for some time that the teacher-training process represents the first and 'indispensable' step towards achieving scholastic inclusion,¹⁶ the legislator has chosen to encompass the new measures both to guarantee inclusion and the rules relating to teacher training under a single decree, Italian Legislative Decree 66/2017, but has set the secondary school apart, preferring instead to dedicate a specific decree to this area, Italian Legislative Decree 59/2017. That decision thus manifests the idea according to which, with the increase in the educational level,

¹⁴ See, among others, Baldacci 2015, pp. 284f.

¹⁵ The so-called 'Good School' reform was introduced by delegated Italian Law n. 107 of 13 July 2015 ('Reform of the national education and training system and authorisation for the reorganisation of the legislative provisions in force'), following which eight (of the nine envisaged) implementing decrees have been issued. The theme of scholastic inclusion is touched on closely in: Italian Legislative Decree n. 66 of 13 April 2017 ('Provisions on the promotion of the scholastic inclusion of students with disabilities, pursuant to article 1, paragraphs 180 and 181, letter c) of Law n. 107 of 13 July 2015'); Italian Legislative Decree n. 62 of 13 April 2017 ('Provisions on the assessment and certification of skills in the first cycle and State examinations, pursuant to article 1, paragraphs 180 and 181, letter i) of Law n. 107 of 13 July 2015'); Italian Legislative Decree n. 59 of 13 April 2017 ('Reorganisation, adjustment and simplification of the initial training system and of access for teachers in secondary schools in order to render it functional to the social and cultural evaluation of the teaching profession, pursuant to article 1, paragraphs 180 and 181, letter b) of Law n. 107 of 13 July 2015'). Italian Legislative Decree n. 66/2017 was reformed by Italian Legislative Decree n. 96 of 7 August 2019.

¹⁶ Applicable to all, in this regard, are the words of Fiorin 2007, p. 154, and Id. 2012, p. 78: 'an educational context able to competently accept everyone is necessary. Competence and acceptance are two sides of the same coin.'

the needs of acceptance and inclusion or, at least, that these needs progressively recede behind other needs, such as that of ensuring teachers have prominently curricular training.¹⁷

Under the previous system, those wishing to become secondary-school teachers were required to qualify, following their degree, through a work-training placement. The placement permitted entry onto the teachers' registers in Italy only as a supply teacher. In order to become a fully qualified teacher, in fact, a competitive examination had to be passed.

Under the reform introduced by Italian Law 107/2015 and by the subsequent Italian Legislative Decree 59/2017,¹⁸ graduates who want to teach in secondary schools are required to take a competitive examination, held every two years, provided they have obtained 24 university or academic credits (CFU/CFA) in psychological, anthropological, or pedagogical disciplines or in didactic methodologies.¹⁹ Those who are successful in the competitive examination then begin a three-year training and placement programme at the end of which, pending a positive assessment, they are established as fully qualified teachers.²⁰

The increase in training credits in these disciplines is undoubtedly a step in the right direction, but we can, and must, do more. Ideally, teacher training on these themes should start at the degree stage in order to then continue during the training and internship stages and beyond these on to on-the-job training. At times like these that are marked by serious social crises, it appears evident that the priority should be to construct a new way to see and relate to students: the spread of diagnoses in the school context, in support of personalised study plans, reveals the tendency of teachers to delegate to specialists the task of supporting students with difficulty in the realisation of their educational goals. Now more than ever it is necessary to reassess the pedagogical approach in order to shine light on individual resources and talents so as to allow, in accordance with the perspective adopted in our Constitution, the 'full' development of individual personalities and their 'effective' participation in the material and spiritual progress of society.²¹ According to paragraphs 792 and 793 of Law n. 145 of 30 December 2018 (the so-called 'Budget Law'), the three-year training and placement programme was replaced by a one-year training and test path.

Therefore, while we should not neglect the clinical approach, which is aimed at defining the cognitive profile of the individual with particular attention paid to learning methods and timescales, it is necessary to adapt our perception of students as impaired subjects needing to be 'managed' in order to see them as persons with as yet unexpressed potential, to be guided

17 For a critical commentary on the 'Good School' reform with regard in particular to the theme of scholastic inclusion, the reader is referred to Matucci 2017, p. 1f.

18 The new provisions apply to competitive examinations held after the entry into force of Italian Legislative Decree 59/2017.

19 See art. 5 of Italian Legislative Decree 59/2017. According to art. 3 of Italian Ministerial Decree n. 616 of 10 August 2017, the 24 credits may relate to the following disciplines: 1) education, special needs education and the didactics of inclusion; 2) psychology; 3) anthropology; 4) general didactic methodologies and technologies. The notice issued by MIUR (Italian Ministry of Education, University and Research) on 25 October 2017 ('Clarification with regard to obtaining the so-called '24 university training credits' referred to in art. 5 of Legislative Decree n. 59 of 13 April 2017 and to Ministerial Decree 616/2017') establishes, among other things, that the credits obtained in the scientific disciplines indicated in Decree 616/2017 are not automatically certifiable as valid for the training course.

20 For further information, see Falanga 2017, pp. 375ff.

21 This according to article 3, paragraph two and article 4, paragraph two of the Italian Constitution.

as they grow.²² It is essential, therefore, to create an initial training route that reinforces the pedagogical skills of the teacher so that the school context is characterised, at upper and lower levels, by a climate of listening and acceptance. Indeed, it should be remembered that in order to learn, students require a certain level of psychological and emotional stability which can only be achieved if and insofar as teachers are able to create a calm and relaxed atmosphere in the classroom, putting in place appropriate educational strategies. Therefore, in addition to theoretical training, provision should naturally be made for work placements and attendance at educational workshops at the degree stage so that teachers can gain the experience necessary to effectively hit the ground running when they start their teaching career.

If the goal is, therefore, to create a teacher-training system that is consistent with the constitutional principle of a school that is 'open to each and everyone' – in other words, a school that is able to accept the wide diversity of students that exist in society, to accompany them on their long journey towards their self-realisation as an active member of the community – it is essential that the journey undertaken by graduates in order to become secondary-school teachers combines the requirement to learn the curriculum (which largely represents the content to be taught) with the theoretical and practical skills that will enable them to convey this content, helping every single learner to harness their potential, including where there are biological, psychological or social factors that interfere (even if only temporarily) with learning.

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22 On this point, see the reflections of Goussot 2015, pp. 15ff. As observed by Goussot, 'many teachers want the 'experts' to provide practical answers, they want solutions that do not exist to the extent that it is precisely the complicated and at times complex nature of the educational relationship, which is a human relationship, that produces a sense of anxiety and impotence [...]. The central question concerns the pedagogical management of these situations: whether to observe them to highlight symptoms, difficulties and incapacities or to observe them to understand and accommodate particularities and potential. We know that the diagnostic perspective tends to see symptoms and what is not working, while the pedagogical view seeks to highlight and to understand the psychological and pedagogical profile of students, how they learn, the abilities and interests they demonstrate, their inclinations and the language they use. However, many teachers often receive scant pedagogical training and are not aware of the basics of the various methodological currents in education. They have a significant knowledge deficit concerning those live didactics that are able to create learning situations that previously seemed impossible' (p. 36).

- 2017: Legislative Decree 13 April, n. 66. In: *Gazzetta ufficiale della Repubblica italiana*, 16 May 2017, n. 112, Suppl. 23/L: 'Provisions on the promotion of the scholastic inclusion of students with disabilities, pursuant to article 1, paragraphs 180 and 181, letter c) of Law n. 107 of 13 July 2015'.
- 2017: Ministerial Decree (MIUR – Ministry of Education, University and Research) 10 August, n. 616: 'Methods of acquiring university and academic credits'.
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