Pietro Ortolani

How a TV court case launched the academic career of Pietro Ortolani
A major court case on Italian television sparked an interest in procedural law. Since then, Pietro Ortolani has built an academic career with a particular focus on litigation, arbitration and technology. He discusses his chair ‘Digital Legal Studies’, the lawyer of the future and his student days in Pisa.

Text: Dennis Arns  Photo credits: Duncan de Fey

Pietro Ortolani grew up in Montecatini Terme in Italy. He became interested in law at an early age: “My first encounter with law was as a child. I watched an Italian TV programme. In those days, they broadcast famous cases. It started with a procedure with well-known politicians. I became curious: how does something like that work? Why is it that first the public prosecutor’s office is allowed to speak and then the opposing party? Who determines that? In fact, that was my first interest in procedural law, which I still practice today.”

Choosing to study law was therefore an easy decision. “I have always had an extraordinary interest in film, art, texts and books. I did not want to study literature, but something more practical. Why Pisa? Montecatini is halfway between Pisa and Florence, so it would be one of those two universities. Pisa is a real student city and a lot smaller than Florence. I liked the student-like character of the city, it really belonged to the students. I lived in the centre of the city, which was a very nice time. We organised a lot of things, such as film screenings and concerts.”

The lessons of Julian Lew
Ortolani sees some differences between studying law in the Netherlands and Italy. “My time in Pisa was very interesting. We had many lectures and little one-on-one contact with the teacher. The course material was good and detailed, but there was little room for individual initiative. If I now receive an e-mail from a student who wants to work on something related to comparative law, then I am very happy to help. In Italy, that didn't happen very often. That makes studying a lot more stressful than for Dutch students. It is useful for a lawyer to learn to work under stress, but it is not encouraging the creative initiatives of students”.

After his master’s, Ortolani started as a trainee lawyer and a PhD student in Rome. “That was an advantageous position. I had access to the legal profession and to the academic world. In 2012 I spent a year in London. Queen Mary University of London is an institute that focuses on arbitration. Julian Lew, for example, worked there; a famous and very good arbitrator from whom I learned a lot. When I attended his lecture for the first time, I imagined myself in the Billy Wilder film Witness for the Prosecution. I had never seen this before. In Italy, I had super-experienced, scientific lecturers. But Lew was so good at holding our attention. If I could combine my Italian, positivistic approach with his British showmanship, I would be a good teacher.” Ortolani begins to laugh. "Whether I have been able to do that you would have to ask my students."

Dispute resolution in a digital age
Ortolani passed the bar exam in Italy and started working at the Max Planck Institute in Luxembourg. For the first six months, he worked as a legal librarian. “I was allowed to build up the international law collection. The shelves have to reflect the focus of the institute, a very interesting job. Then I went to work as a postdoctoral researcher. Until 2018, when I came to Nijmegen. There was an interesting position available. They wanted to internationalise in Nijmegen, it was not a faculty where every colleague is an international. That appealed to me; there is a strong positive law focus here on Dutch law. That makes it an interesting role for a foreigner to build up something new.”

The chair is quite innovative in itself, Ortolani thinks. “It is about law and technology from a dispute resolution perspective. Actually the same subject that grabbed me when I watched television as a child, but then in a digital age. Nijmegen is quite unique with this combination, a consequence of the national sector plan for Law. Only here are the components ‘Conflicts Resolution Institutions’ and ‘Digital Legal Studies’ brought together, in my chair.”

The interest in technology came early for Ortolani. “As a young researcher, I wrote a lot about arbitration and technology. One development I followed closely after my dissertation was bitcoin. Ten years ago, that was a niche. There was a lot of concern at the time about trading on the darknet, for example. It was an interesting means of payment, but what did you do if it was stolen, for example? I discovered that the people who were using bitcoin back then actually had an arbitration system. You don't pay the seller directly, you first place the bitcoin in a sort of secure account. There is a third party which acts as an arbitrator between the buyer and seller. This was actually a 'secret' way of dispute resolution that had not been discovered at the time.”
The benefits of being an academic
This type of arbitration became a kind of passion project for Ortolani: “I was one of the first to investigate this in such a way, so there were many unanswered questions. That is the benefit of being an academic: you have the freedom to decide what to investigate. A lawyer, for example, cannot do that. The article I published on that opened a lot of doors.”

So have these developments in turn changed the administration of justice? “There is certainly cross-fertilisation between the administration of justice and alternative ways of resolving disputes. The Netherlands Commercial Court, for example, is part of the Dutch legal system, but the procedures and techniques mostly come from arbitration. Dispute resolution is increasingly becoming a market of services. The judiciary can innovate by learning from the private sector. At the same time, it can also become problematic. Is it the role of the state to create a kind of premium service for rich parties? Or should they protect the most vulnerable sectors of our society? You have to find a balance here. That is a challenge that we as a university - with objective research - play an important role in.”

“Of course technology can help in cost reduction and by making procedures more accessible. But that has to happen gradually. There are also examples of failure: in the Netherlands we saw this with the Quality and Innovation in Justice programme (KEI). That cost a lot of money and was a debacle. Innovation is important, but it cannot always take the place of the human dimension of dispute resolution: it is all about people. People want to be taken seriously. A dispute over the custody of a child is not going to be better resolved by making the process digital or over the phone, because that is a very emotional thing.”

The future of lawyers
Despite increasingly clever technology, lawyers will continue to play an important role in society, Ortolani believes. “Some developers are already claiming that lawyers will become redundant. We won’t need people anymore because of smart contracts and the use of robot judges’. I then think: just wait five years. Perhaps we will see cases appear in court because the smart contracts were not entirely clear. Technology can help lawyers to work efficiently, to free up time from bureaucracy. In this way we can perform our core legal tasks and do a better job. But it should not be an objective in itself to digitally replace a judge or an arbitrator.”

For now, there are plenty of interesting research questions waiting for Ortolani. He finds the most enjoyable aspect of his work is the combination of researching these questions and teaching. “I missed that at the Max Planck Institute, for example: there were no students there. Only fifteen colleagues who all did more or less the same things as I did. As a teacher, you first of all have to offer an understandable overview of the subject matter. But I also ask my students what they think about the questions I am still working on. They have a younger and more flexible mind. Sometimes I then get responses that are really inspiring.”