

**AUTHOR**

**ERMANNO TORTIA**  
University of Trento and Euricse, Italy  
ermanno.tortia@unitn.it

**CONFERENCE LETTERS**

## The Annual Conference of the Italian Society for Law and Economics (ISLE)

**KEY-WORDS**

LAW AND ECONOMICS, MERITOCRACY, DISTRIBUTIVE INEQUITY, EVOLUTION OF INSTITUTIONS, ETHICAL BEHAVIOUR

**JEL Classification:** K00, K12, K31, K42 | **DOI:** <http://dx.doi.org/10.5947/jeod.2019.005>

The Italian Society for Law and Economics (ISLE) is a national association, but ranks among the largest Law and Economics associations worldwide and each year receives visiting delegates from several European and non-European countries during its annual conference. The 2018 ISLE edition of the conference was held at the University of Salento (Lecce, Italy) on the 13-15 December 2018<sup>1</sup>. The conference started with the workshop “Meet the Editor”, held with the editors in chief of some of the most important Law and Economics journals internationally, including the International Review of Law and Economics; the Review of Law and Economics; the European Journal of Law and Economics; and the Review of Law and Economics. The editors discussed the editorial process with the audience evidencing possibilities and critical elements especially for young scholars seeking academic publications.

The program of the conference was enriched by three keynote speeches. Yuval Feldman (Bar-Ilan University) presented his new book *The Law of Good People* (2018, Cambridge University Press), in which the author discusses how legal systems would have to deal not only with repressing crime and sanctioning misbehaviour, but also with ethical behaviours motivated by value judgements and ideology. According to Feldman, civil disobedience and other violations need to be interpreted by law as ethical “misbehaviour” and re-comprehended within legal boundaries.

<sup>1</sup> Conference program available online at: <http://www.side-isle.it/ocs2/index.php/SIDE/SIDE2018> [Accessed 22 June 2019].

In her speech titled “Religious Preferences and Political Institutional Change” Marianna Belloc (University “La Sapienza” of Rome) (cfr. Belloc, Drago and Galbiati, 2015) offered a reconstruction of the interplay between religious beliefs and the evolution of institutions in medieval Italy. According to Belloc, strong religious beliefs and superstition appear to have retarded the emergence and development of communal institutions in Italian cities, since these beliefs were usually aligned with political objectives of religious leaders, especially in Episcopal cities. Retardation was stronger following exceptional events, which were particularly impressive in relation to religious conceptions of the population (e.g., earthquakes and other seismic events). In cities in which religious and political powers were separated, institutional evolution led more promptly to transition from feudal regime to communes.

Daniel Markovits (Yale Law School) presented his book *The Meritocracy Trap: How America's Foundational Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite* (2019, Penguin Press). The author discusses the moral and social roots of economic inequality in today American society. In his view, the main economic root of inequality is found in the differential accumulation of human capital that has been leading the middle (clerical) class and lower (working) class to lose out to the elites over the last decades. Divergence in economic wealth favouring the elites allows insane investments in human capital by these elites to guarantee the self-sustainability and self-enforcement of the process. This is especially true in their education and training of their children. Middle and lower classes just cannot afford such forms of over-investment. Meritocracy represents the hammer ideology that backed divergence in income distribution and inequality over the last decades in the US. Privileges linked to right of blood dominated aristocratic societies while leisure was the hallmark of inequality in early capitalism, when Veblen (1899) described the leisure class in America. In contemporary capitalism, meritocracy is the dominant ideology, which allows elite workers to hoard larger and larger riches, while middle and lower class workers are undergoing a process of impoverishment and standardization of their skills. Elites themselves became entrapped in the meritocratic ideology and in the social processes engendered by it. Elites have to overinvest in the accumulation of unproductive human capital and work longer and longer hours to justify the dramatic difference of their income relative to the rest of American society. These wide social processes led to divergence between democracy and meritocracy, which were once considered allies, and made opposite forces. Technology is not neutral to this process. Contemporary technological standards and innovation is deployed by elite classes to bend work organization in directions that exalt their ability to manage and gain from the organization of production. Middle and lower class workers emerge as people deprived of the means and skills necessary to access and use advanced technologies and, instead, are more and more put under the control of, exploited and marginalized by those technologies. Social enterprises have the potential to develop and use new technologies that are more democratic in nature and to start a countervailing social process leading to the overcoming of meritocracy as the dominant economic ideology and to new social processes reducing inequality.

The program of the conference scheduled 27 parallel sessions, and 75 paper presentations. The conference was participated by about 150 people. Background topics of the parallel sessions

included philosophy of law and economics. Themes related to theoretical and practical rationality were used to rise critical remarks on the credibility of economic models, and on the burden of value judgments. Also, cognitive model of nudge theory and its limitations were conjugated with the issues of reasonableness, welfare, paternalism and fairness. Among the most treated topics, regulation had prominent role, especially concerning procurement, financial regulation in new markets (virtual currencies, etc.), trade and anti-competitive pricing regulation. The study of new financial technologies was conjugated with the development of regulation of crowdfunding in the EU and community-driven regulation. In addition, the characteristics, enforcement, pros and limits of smart contracts entered this perspective. Finally, regulation was deepened in the field of intellectual property both for constitutional and for ordinary laws, as especially applied to software, patents and data protection regulation.

The emerging theme of the relevance of big data found its space, especially concerning platform competition, data governance in competition law, mergers and antitrust. Finally, price and non-price regulation was studied in the fields of tourism taxation and civil liabilities. Price regulation was also studied in the field of energy crises and cyclical behaviour of electricity prices (as applied to the Enron case) and the shifting of energy sources from brown to green (from carbon to renewables). Relatedly, markets and competition law entered several sessions, concerning regulation of transport and other consumer markets. Enforcement of competition law involved monetary fines, legal standards and antitrust.

Governance and company law occupied a large share of the debate in the conference. Uncertainty and justice in corporate governance and finance were especially studied considering the problem of co-operation and following a psychological game theory approach. Legal firms and bankruptcy were studied taking into consideration and comparing new public instruments and governance. Finance and banking governance considered bail-in securities, financial contracting, and precautionary recapitalizations in co-operative and non-cooperative banks. Contract and company law included survey of theoretical contributions, and the evolution of business on historical grounds. Macro themes especially concerned labour markets and migration. Regulated occupations, their extent and labour market effects were analysed in the Italian case, as also dismissal regulation, incomplete contracts and democratic governance. The study of economic and regulatory distortions took step at this point, as the audience of the conference was introduced to the theme of labour contracts in the market for food delivery in Italy. Migration dealt with asylum and external border policy in the EU, risk preferences and refugee migration. It also served as gateway to the study of xenophobic activities. Other distortions in law and economics concerned corruption and bribery. Bribery of intermediaries was studied within the principal-agent theoretical milieu. Measures of corruption were introduced in the study of regulation of innovation, and risk in Italian public procurement. Punishment and deterrence concerned judicial schemes, sanctions, and specific deterrence against uncivil behaviour and speeding tickets. Finally, the themes of crime and money laundering concerned empirical evidence on suspicious money laundering transactions: (i) the determinants of waste crime in Italy; (ii) crime, money laundering, and the specialness of usury contracts in a dynamic model.

Themes more strictly concerning legislation and jurisprudence included legal change in the face of uncertainty, presumptions and evidence technology. European arbitration institutions, judicial deference in common law, and ideology in the decisions of the US Supreme Court were studied from the judicial point of view and applying network analysis. Broader themes were also dealt with, especially as related to transition countries: de jure and de facto democracy in post-socialist countries; transitional justice in a post-revolution phase.

A final and conspicuous block of presentations dealt with experimental (both lab and non-lab) approaches. Laboratory experiments handled justice in the distribution of a common output, and the interplay between financial instruments, forms of governance and motivations. Field experiments were first contextualized in public-private partnership and conventional procurement for infrastructures in India. Other field experiments tackled compliance behaviour in networks, and salience, simplification and timely compliance in the enforcement of speeding tickets.

The local organizers of the University of Salento Raffaele Di Raimo, Donatella Porrini, Fabiana Di Porto and Cristoforo Osti are to be praised for the success of the event. Best wishes are deserved by the organizer of the next ISLE conference, Lorenzo Sacconi, who is also the President of the Society. The next edition of the conference will be held at the State University of Milan, Department of Public and Supranational Law, from 19 to 21 December 2019. All interested scholars are invited to participate.

## References

- Belloc, M., Drago, F. & Galbiati, R. (2015). Earthquakes, Religion, and Transition to Self-Government in Italian Cities. *CESifo Working Paper Series* No. 5566. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2692532](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2692532) [Accessed 22 June 2019]
- Feldman, Y. (2018). *The Law of Good People. Challenging States' Ability to Regulate Human Behavior*. Cambridge, UK: Cambridge University Press. DOI: <https://doi.org/10.1017/9781316480328>
- Markovits, D. (2019). *The Meritocracy Trap: How America's Foundational Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite*. New York, NY: Penguin Press.
- Veblen, T. (1934) [1899]. *The Theory of the Leisure Class: An Economic Study of Institutions*. New York, NY: The Modern Library.