

## Crisis of traditional concepts in the various law disciplines

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A study seminar on this topic was held in Rome on April 7 2016, promoted by the Department of Juridical and Political Sciences of Marconi University. The proceedings of the seminar are available also online. Hereinafter, we provide the Table of Contents of the Supplement together with the abstracts of all the papers.

As everybody knows, “crisis” and “utopia” are two Greek words that, having been borrowed by all European languages, seem to have a strong impact on the contemporary world.

“Crisis” and “Utopia” – as it is well known – are two Greek words which have become part of the lexicon of modern European languages; both look like to have a great impact inside the contemporary reality. In fact today’s world sounds to be filled by these two factors. The reason is quite simple: there is a big crisis and this crisis touches all the aspects of the society (economics, politics, institutions, law, culture, energy). In this atmosphere of crisis, hence that the various utopias arise, that is because the western civilization does not seem to find the concrete solutions towards the crisis, rather than it seems to develop utopias as a solution of the issues. Therefore we can see either the rise of new “utopias”, usually born from the demagogy or populism, or to dust off old utopias which are adjusted to the contemporary world (e.g. the case of the “Neo-Caliphate”).

In few words, there is a lacking of answers to the contemporary global crisis. Galileo Galilei used to assert: *«behind each problem there is a chance»!* Contemporary world seems to disclaim this aphorism given to us by the father of the modern science. On the contrary, world’s today prefers to find utopic solutions or – but this is another topic – to refuge itself inside the theories asserting of the global conspiracy. These last theories try to explain the present long moment of crisis, but they offer no solution at all, rather than they produce an alteration of the actuality.

The Department of Juridical and Political Sciences of Marconi University, among its scientific projects and plans, has focused its attention on the topic “crisis and utopia”. Therefore the Department decided to organize a symposium, which has been held on April 7, 2016. Of course it represents a first scientific effort about the topic, which is clearly opened.

The reader will note that many branches of the law (private, criminal,

fiscal, European) have been investigated as well as some social aspects (like security, terrorism) and last geopolitics (i.e. a short analysis of the “neo-caliphate”).

Therefore the *acta symposii* – now here published in “*Formamente*” – represent the efforts of the above mentioned workshop. Of course the research of the Department will go on also during the next year, with the realization of other seminars and workshops. In a word this is a first result and – as always – just a left open about the selected general topic. Any case, to identify, as it has been done, some of the critical points of the various systems is certainly a significant first step in order to find further solutions.

So, we will see if the “world at risk” (Ulrich Beck) is a “broken world” (Aleksandr Solženicyn) or not, i.e. if the mankind will be able to find solutions in order to overcome the crisis.

Last but not least, I express a very special gratitude to professor Raffaele Chiarelli, Director of the Department of Juridical and Political Sciences of Marconi University for his precious, constant and careful attention in order to launch the symposium, the proceedings of which are now published. In conclusion, I want to end this lines of preface, quoting a sentence by a famous jurist of the past, Rudolph von Jhering (1818-1892), asserting: «*everybody exists for the benefit of the world, the world exists for the benefit of everybody*». I think that the above-mentioned aphorism is able to summarize and describe the “spirit” that hovers today at Marconi University.

*Prof. Danilo Ceccarelli Morolli*

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### Crisis of the Islam and “Utopia” of the Neo-Caliphate?

**Danilo Ceccarelli Morolli**, Università degli Studi Guglielmo Marconi, Rome, Italy

#### ABSTRACT

The paper – whose title translated into English could be «Crisis of Islam and “Utopia” of the Neo-Caliphate?» - focuses on the ideology of the ISIS. So, the paper tries to analyse ISIS from ISIS itself through the official ISIS propaganda as it is shown by “Dabiq” (ISIS’s review). In doing that the Author recalls the medieval theory of the Caliphate and its importance inside the Islam; also he remarks that ISIS is a product of the crisis of the contemporary Islam. Of course the study can not be a final one, either because of the changing of the situation (the paper has been presented on Spring 2016) either because the actual geopolitical “theorem” has difficult solutions up to now.

*KEYWORDS: Caliphate, ISIS, Dabiq, Crisis of Islam, Geopolitics*

### Contract Type Crisis

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#### ABSTRACT

The distinction between “innominate” and “nominate” contract is typical of Civil Law system; so the paper wants to reflect on the “nominate” or typical contract in the Italian private law and its relevance in order to find the appropriate right to the concrete case. In addition of that, the paper focuses its attention towards some of the major issues of the contracts, e.g. the cause of the contract, the contract and the European Union, the distinction between typical and not typical contractual hypothesis; last but not least the nominate contract as an “open system”.

*KEYWORDS: Contract, Civil Law, Private Law, European Law, General theory of the contracts*

### The Limited Role of Parliaments in the European Union as a Consequence of the Crisis of European Democracy

**Ulrike Haider-Quercia**, Università degli Studi Guglielmo Marconi, Rome, Italy

#### ABSTRACT

The article analyses the legal and political aspects of the participation of European Parliaments in the legislative process of the European Union. It points out that the powers of control and participation are still highly determined by the dynamics between the legislative and executive powers at national level and that that powers are not sufficient to overcome the crisis of the principle of political representation within the EU institutional framework.

*KEYWORDS: Democratic deficit, European parliamentary function, European Union, Principle of representation*

## Stability, the Crisis of Penal Welfarism and Criminal Paternalism

**Maria Beatrice Magro**, Università degli Studi Guglielmo Marconi, Rome, Italy

### ABSTRACT

The paper analyses the issue of “penal welfarism” and its crisis in the contemporary world, with special reference to the following topics: deregulation and necessity of security, compliance and crime prevention, monitoring and crime risk, paternalism in crime law, and other open questions upon penal system today.

*KEYWORDS: Crime law, Paternalism in crime law, Penal welfarism*

## The Crisis of Human Rights in France and in Belgium as a Consequence of Terrorism

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### ABSTRACT

The text tries to approach the crisis human rights are facing in Europe as a consequence of international terrorism. The Paris terrorist attacks of 13th of November had an echo not only in France and in Belgium but all over the European countries. The questions at stake that the text tries to point out are the restrictions to the fundamental freedoms of the citizens in favour of an higher level of security. Starting from an analysis of the criticalities of the measures adopted in France and in Belgium as the *état d'urgence*, the derogation to the ECHR asked by France and the discussion on the Schengen suspension the focus widens to the general challenges international terrorism rises against human rights and the “western” culture. The two main criticalities that human rights are facing are their universality extended also to those who try to trample them and the dialogue with other cultures far from the western paradigms. A common root to these two criticalities seems to be found in the post-modern conception of the human being which substitutes the real man with an ideal one following the cartesian distinction of *res cogitans* and *res extensa*. Conceiving human rights as a common code of humanity opened to enrich interpretations of other cultures could be a good starting point for a real intercultural dialogue.

*KEYWORDS: Freedom, Human Rights, Security, Terrorism*

## Urban Settlement and security crisis

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### ABSTRACT

The issue of security of the citizen appears in all the politician's agenda. So the paper tries to reply to the following question: is really post-modern society a not secure society? In fact the increasing request of security by the citizens appears not correlated with the decreasing of crime (on the basis of the official statistics). On the contrary the perception of insecurity is high among citizens and in some part of the world the public administration has allowed the construction of "walls" and in some cases, we have "fenced cities", where is possible only for residents to enter under high level of surveillance by private security corps. So it is usual to speak about "wall cities"; but these urban defended areas instead of reducing the sense of security, provide to increase it.

*KEYWORDS: Insecurity, Perception of insecurity, Surveillance (of spaces and areas), Urban security, Wall cities*

## Tax Equality Crisis and Tax Ethics Utopia

**Maria Assunta Icolari**, Università degli Studi Guglielmo Marconi, Rome, Italy

### ABSTRACT

It is possible to observe the general topic of "Fiscal ethic" under two different aspects. The first aspect regards the public agency which is called to realize policies based on the principles of equality and solidarity in agreement of the fundamental principle of ability to contribute pay as a fundamental criterion which realizes the respect of the "minimum" for life and also the obligation for those who have to give the tribute. The second aspect, is actually double: from one side, the role played by the Lawgiver and on the other the behaviour of the Financial Administration about the interpretation of the fiscal laws and the law enforcement, in order to avoid the reduction of the consent with the consequence of having an imposition of the fiscal norm which, therefore, can result as an act reducing the consent itself.

Of course, it would be interesting to investigate all the above mentioned aspects – which are actually independent each other – and all their possible implications, but, obviously, there is no sufficient space to do all that.

Therefore the present paper prefers to focus on carrying out of the principle of the equality of the parties – i.e. fiscal administration and taxpayers – in the litigation stage and pre-litigation stage. In addition of that, the present study will try to remark the issue concerning the purpose of the tribute with respect of the human being.

*KEYWORDS: Ability to pay, Equality tax, Fiscal ethic*