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Law and Economics as We Grow Younger

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Abstract: The European Association of Law and Economics grants a biennial Lifetime Achievement Award and Honorary Membership to a scholar "for his or her significant contributions to the field of Law and Economics, in particular to the development of this scientific movement in Europe." This paper is the award lecture delivered by Professor Francesco Parisi at the Annual Meeting of the European Association of Law and Economics, held at Tel-Aviv University on September, 19, 2019.

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This "paper" inaugurates a new tradition for the European Association of Law and Economics. Starting in the year 2018, the European Association of Law and Economics (hereinafter, I will refer to it as EALE) will grant a biennial Lifetime Achievement Award and Honorary Membership to the Association to a scholar recommended by a nomination committee and awarded by the EALE Management Board "for his or her significant contributions to the field of Law and Economics, in particular to the development of this scientific movement in Europe." The EALE Award will be announced on even-numbered years, and the recipient of the award will deliver the EALE Award Lecture the following year. The Lifetime Achievement Award lecture is published in the Review of Law and Economics, the EALE's official journal. This year, it is my great honor and challenge to inaugurate this wonderful tradition. It is a tradition that overtime will leave tangible traces of the evolution of law and economics, and of the fragile, human contributions that each of us, passing scholars, have brought to this field of study. The task of conceiving this inaugural lecture was made particularly challenging by the instructions and guidelines given to me by the President of the EALE, Professor Giuseppe Dari-Mattiacci, whom I should congratulate for his recent appointment to Columbia University, Law School. Professor Dari-Mattiacci asked me not to present an academic paper, but to do something different and fun, "a-la-Parisi" he said. Dinner speeches consisting of

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a paper, after a full day of presentations, can be too intense, he said, and he instructed me to say something entertaining, with highlights from my academic life. But then he added that my remarks would be published in the Review of Law and Economics – for which I serve as Editor-in-Chief. So, I was given the formidable task to say something fun and at the same publishable in a reputable law and economics journal. It seemed an empty core.

This long preamble is my way to tell you that I do not have a paper for you. To aggravate matters, Avraham Tabbach wanted to announce a title for my presentation, and since these remarks would eventually have to be published, I came up with the title "Law and Economics as We Grow Younger." It was a title that made no sense, but hopefully it would attract the attention of curious readers and increase the number of downloads on SSRN. Also, I was informed that the only financial value of the EALE Lifetime Achievement Award is the Honorary Membership to the European Association of Law and Economics. Recipients of the award get a free membership to the association and a waiver of the registration fees when they come to the Annual Conferences. Hence, the value of the Honorary Membership increases with time, which offers an excellent incentive for the recipients to grow younger and increase their life expectancy. As I was writing my remarks, many other reasons for the title came to mind. I will mention them along the way.

On a personal note, I am particularly fortunate to receive this Award in Israel. My grand-grandmother's maiden name was Espinosa. I am the last in the maternal line sharing that lineage, and to be potentially entitled to an Israeli passport. I have enjoyed every visit to Israel, and I have enjoyed a great working partnership with Ariel Porat, whom I should congratulate for his recent appointment to President of Tel-Aviv University. The city of Tel-Aviv is growing beautifully. At one of the earliest conferences we had in Haifa, the Mayors of Jerusalem and Haifa were present, and they resolved a long-standing dispute with an ingenious resolution that I'll always remember: they agreed that Jerusalem was the most beautiful city in the world and Haifa was the most beautiful city in Israel. I would not be surprised to hear the Mayor of Tel-Aviv joining the debate today and coming up with a yet another memorable line to put his beautiful city on the co-winner's podium.

1 How it all started – Fortunate accidents

I wish I had a better story about how I began my work in law and economics. I wish I could tell you that my career has been the culmination of a lifelong

vocation to this discipline. The true story is much less fantastic. I am where I am thanks to a series of fortunate accidents. After all, the lives of some of us are probably the result of parental accidents. In retrospect, we should say, fortunate accidents. The following remarks are dedicated to the many people involved in the accidents that brought me to law and economics and allowed me to grow and be happy in my work and career. Three of them, I am particularly humbled, are past winners of the EALE Award: Guido Calabresi, who received the award in 2004, Pietro Trimarchi in 2005, and Robert Cooter in 2011.

1.1 Late for class

As for many things in life, my encounter with law and economics happened by pure happenstance. I was completing my J.S.D. degree at U.C. Berkeley. At the time, my field of study and dissertation was in comparative law and legal history. My dissertation was on the evolution of the notion of negligence. Specifically, I was studying how, throughout legal history, the average/reasonable man standard had been applied when tortfeasors were non-average individuals, such as low-skilled or high-skilled individuals.[1] It was my last year in the J.S.D. program, and I had just returned from Italy. I spent a few extra days in Italy because my grandmother had fallen and broken her hip. I was registered to take a seminar on Jurisprudence (i. e. legal philosophy), and had missed the first class. Plus, as a good Italian, I was running 15 minutes late for class. The culminating factor that day: I entered the classroom and realized I was in the wrong class. There had been a change in room assignment. I felt too embarrassed to leave in middle of the class and decided to sit quietly in the class for the remainder of the hour.

With a little embarrassment I asked a neighboring student the title of the course. The class was co-taught by Daniel Rubinfeld and Steve Sugarman, and it was called "Tort Theory and Policy." The seminar was somewhat related to my field of research but proceeded very differently from the other law school courses I had been exposed to. On the blackboard the instructor was writing algebraic equations, which made me think it was a class for a different department. I had never seen mathematics used to understand the functioning and effect of legal rules. I always loved mathematics. My mom was a math teacher. My dad was a judge on the Italian Supreme Court. That class was bringing together my two intellectual heritages. After learning a bit more about that course, I asked my faculty advisor, James Gordley, for permission to withdraw

1 Portions of my dissertation were subsequently published as Parisi (1991, 1992, 1994).

from the Jurisprudence class and to add the tort theory seminar in its place. My advisor, somewhat reluctantly, approved the substitution.

That was my first encounter with law and economics. Definitely not a planned professional choice. The mere accident of walking 15 minutes late into the wrong classroom, led to an enchantment with the methodology of law and economics. My advisor encouraged me to introduce myself to Robert Cooter, who was regarded as the central figure of the law and economics program at UC Berkeley, and so I did. My J.S.D. degree was about to be completed, and my Fulbright fellowship was about to end. Yet, I realized the exposure I had to law and economics during that first seminar had irreversibly changed my way of looking at legal problems. It would have been very hard for me to go back to the traditional dogmatic or case-driven method of legal analysis. Still, I realized I lacked the formal skills needed to be an active academic player in that field. A crossroad was ahead of me. Robert Cooter asked me if I was willing to make a substantial investment in the field of law and economics, pursuing a Ph.D. degree in Economics, at U.C. Berkeley or elsewhere.

By that time, I had secured a position as Assistant Professor of Private Law at the University of Rome "La Sapienza", in the Department of Political Science. Academic positions in Italy were hard to come by, especially for somebody at my young age. I went back to Rome to start my new job. In Rome, I discussed my vocational crisis with some senior scholars in my field, whose advice I greatly respected, Pietro Rescigno, Paolo Vitucci and Natalino Irti, and with my loving and wise parents. My father understood my dilemma very well. As a young man, he wanted to be an engineer. And even though he had a wonderful career as a judge, he always wondered how his life would be different if he followed his other professional vocation. Three days later, I asked the University of Rome to be placed on unpaid leave, and later entirely resigned my position and returned to U.C. Berkeley.[2] That same year, Herma Hill Kay, Dean at U.C. Berkeley law school, was on academic leave because she had been elected President of the American Association of Law Schools. The law school offered me a position as Lecturer in Law, to teach a course in Private International Law, which replaced the Conflict of Laws course taught by Dean Kay. This allowed me to extend my

2 During those conversations, I became aware that, under Italian academic standards, my decision to pursue a degree abroad in a different discipline would likely delay or put an end to my Italian academic career in Italian private law. My subsequent academic career escaped that prediction. Thanks to an invitation to teach law and economics at Bocconi University in 1999 and to a fortunate encounter and intellectual connection with Professor Pietro Trimarchi, in 2001 I was offered a position as Distinguished Professor of Private Law (Professore per Chiara Fama) at the University of Milan, where I taught until 2006, before joining the University of Bologna as Professor of Public Economics.

stay in the U.S. and to pursue a Ph.D. in Economics. My never-ending career as professor-turned-back-student began at that point. What followed from there is part of my academic history.

My gratitude goes to Daniel Rubinfeld for explaining the Shavell (1980) model of tort law, for writing those (at the time, unintelligible) equations I observed after walking into the wrong classroom, and for later serving as one of my two field advisors during my economics graduate work at U.C. Berkeley; to Robert Cooter for taking my fascination for law and economics seriously enough, for recommending me for admission to a Ph.D. in Economics, and for guiding me through the early steps of my research and career; to Oliver Williamson, for serving as my second field advisors during my graduate work at U.C. Berkeley; and to the many other teachers and fellow students, who helped me navigate through the thickets of the discipline.

1.2 The Ringberg conference

Several other important things in my career happened accidentally. Another memorable accident worth mentioning, which brought me closer to the European law and economics community, occurred when I was invited to a Max Planck conference at the Ringberg Castle in southern Germany. I was invited as a discussant for a paper on the transition from floor trading to screen trading in the stock market. I said that was an accidental event, but I did not realize it was accidental until later. At the time I only realized I was being invited to a conference on a topic I knew little about. In 1985, I had written my Italian Doctor of Law thesis on the formation of contract via computer (which was later published as book: Parisi, 1987). Besides that early work, I had no expertise on the stock market – I never worked in finance, and I did not know how screen trading in the stock market worked. But the invitation was too wonderful to decline: travel to a beautiful destination, conference with distinguished participants, and the publication of my comment in an academic journal. So, I tried to educate myself on the topic, came up with something sensible to say, and showed up at the conference.[3] While I was presenting my comment at the conference, somebody from the audience asked me a pointed question. The question started as follows: "Professor Parisi, what you are saying is very interesting, but in some way, it contradicts what you wrote a couple of years ago on this topic ...". In fact, I had never written anything on the topic, so

3 The Comment was later published in the Journal of Theoretical and Institutional Economics (Parisi, 2002c).

an evasive answer was unavoidable: “Thank you for your comment. Maybe you can tell me more about this during the coffee break. … ” At that point, I realized something was wrong. I avoided meeting the person from the audience during the coffee break. A few months later, I realized what had happened. Another scholar with my same name, Franco Parisi, from Chile, was a Finance professor with expertise in the stock market, who often visited Georgetown University. I have come to believe that they had invited me by mistake. But, I guarantee, I was not aware of it until after the fact – there was no identity theft on my part. It was, indeed, a fortunate accident since it allowed me to meet many interesting European scholars with whom I have remained in touch and built wonderful friendships, including Christoph Engel and Urs Schweizer.

1.3 Wurzburg beer fest

Another accidental encounter happened at the University of Wurzburg in Germany. The Department of Economics invited me for a faculty workshop presentation. I remember arriving there for the workshop, but the university was closed on that day, due to some sort of festivity and a beer festival in town. The professor, who had invited me, left a message at the hotel, making different plans for the day, but I did not get the message until later. A younger faculty member, Norbert Schulz, later reached me and graciously offered to spend the evening with me and to show me some of the traditional breweries. The academic visit turned into a surprisingly fun beer tasting adventure. I had never met Professor Norbert Schulz before. He asked me what topics I was currently working on. At the time I was interested in applications of the concept of anticommons, and how antitrust doctrines should be reevaluated for industries that produce complementary goods (i. e. when firms compete for the sale of complements, instead of substitutes). My theory was that most instruments of competition policy seemed to have been designed for the case of substitutable goods, but when applied to markets involving complementarities some of them could reach counterproductive effects. These ideas seemed purely theoretical but eventually became extremely important in competition law in conjunction with the Microsoft case. Modern intellectual property and patent law creates a lot of property fragmentation and complementarities in the production process (e. g. imagine how many inputs of production are needed to produce a computer, and how many complementary applications are needed to make good use of it). Judge Jackson’s order to breakdown Microsoft in two companies, one producing the operating system (Windows) and the other producing applications (MS Office) seemed to overlook the complementarity relationship between OS

and MS Office applications. Creating "competition" in the supply of them would have led to prices that exceeded those of the integrated Microsoft monopoly. Norbert Schulz was a professor of industrial economics (now he is a chaired professor of industrial economics in Wurzburg), but he had not specifically thought about those topics before. We had many beers that night. And I told him about many other paper ideas.

During those years, I was teaching at George Mason University and had the privilege to be in contact with outstanding students who later became outstanding professors. Professor Gerrit De Geest (at the time, Professor at the University of Ghent in Belgium, now Professor at Washington University) had sent an outstanding student from Ghent to spend some time in the US to finish his dissertation. His name was Ben Depoorter. I invited Ben to live at my house during his stay at George Mason, and so he did. Another student of mine during those years was Jonathan Klick. Jonathan Klick was a Ph.D. economist who had been granted a Levy Fellowship to complete a J.D. degree at George Mason. Ben Depoorter and Jonathan Klick are now distinguished scholars and professors, at U.C. Hastings and University of Pennsylvania, respectively. With Ben and Jonathan, we were often talking about our research ideas, and we were exploring the possibility of writing something together. Those were very good years at George Mason University, with two Nobel laureates in economics, James Buchanan and Vernon Smith, along with Gordon Tullock, Charles Rowley and many other giants of our discipline to interact with on a daily basis.

One day, I received an email from Norbert Schulz, the professor of Industrial economics in Wurzburg. He sent me a stylized model that he wrote to study one of the problems I had mentioned to him during the beer fest. A simple, beautifully crafted model. The actual paper was still to be written, but the ideas I had presented to him were still very clear in my mind. Within weeks, Ben Depoorter and I wrote that paper, incorporating his model, and sent it back to him for review. The paper was published that same year with only minor requests for changes (Schulz et al., 2002). In a matter of months, another model from Norbert Schulz arrived in my email box, addressing another problem I had mentioned during the beer fest. In two months, he sent me several interesting extensions of the anticommons model. Ben Depoorter, Jonathan Klick and I, teamed up with Norbert Schulz, and completed three more papers which were sent out for publication (Parisi et al., 2004, 2005, 2006). Communications with Norbert Schulz faded at that point. He had been appointed Department Chair, and his attention was taken away by other administrative matters. After a few years, he told me how pleased he was that our four papers had been published – if I remember correctly, he told me

that he was not even aware of the publication of the last two papers until he saw them cited somewhere! An accidental encounter and a canceled faculty workshop led to a beer fest, and that evolved into a wonderful collaboration, a friendship with Ben Depoorter and Jonathan Klick, and later into other related research with Giuseppe Dari-Mattiacci, Emanuela Carbonara and Matteo Alvisi (Dari-Mattiacci and Parisi, 2007; Alvisi et al., 2011).

2 Rejuvenating encounters

The law and economics scholarship I had been exposed to during the formative years of my study could probably be referred to as "theory of incentives." Remedies and other legal instruments were designed to "align" private and social incentives. Through incentive alignment, individuals were made to behave the way society wanted them to behave. As an example, automobile drivers yield at crossing pedestrians because of the incentives created by tort rules – as an outside observer, it is impossible to distinguish the behavior of a benevolent driver who cares for the well-being of pedestrians from the behavior of a selfish driver who takes precautions to avoid liability. When incentives are aligned, selfish drivers will behave like benevolent drivers.

In all those models, the ideal behavior that the legal system aims to promote is derived from a social objective function. The ideal behavior is the behavior that will best pursue that social objective, maximizing the well-being of society (what economists refer to as "social welfare"). When teaching law and economics, only some minimal discussion is carried out on how to formulate the social objective function. What "Maximand" to be used (e. g. wealth, utility, capability, etc.)? And which technique to use to aggregate individual values into social values (e. g. Benthamite, Rawlsian, Paretian, Nash techniques of aggregation).[4] Even more opaque is the discussion of which "other" social values, if any, should be included in the social welfare function.

In most law and economics courses, these questions were briefly touched upon during the first week of class, as part of the methodology or the critiques to law and economics. We were ultimately being trained to be legal engineers to construct optimal legal instruments.

4 For those who are interested in a brief survey of these concepts and techniques, see Parisi (2013) and Klick and Parisi (2005b).

2.1 The Calabresi challenge

As a law and economics scholar with Italian origins, meeting Guido Calabresi was necessary and inevitable. The work of Guido Calabresi that I had been exposed to during my studies was the Calabresi (1970) on the Cost of Accidents, and the Calabresi and Melamed (1972) on the so-called Normative Coase Theorem. Those were central pillars and ultimately mainstream contributions to the law and economics literature on torts and remedies. When I met Calabresi in the early 1990s, I discovered quite a different person from what I had expected. The Calabresi I met was questioning some of the core premises of the mainstream law and economics scholarship. I would describe the first meetings I had with Calabresi as a challenging and rejuvenating encounter. His lecture focused on the fact that humans care about fairness and are averse to inequality, and he challenged the fact that law and economics scholars continued to use social welfare functions that were blind to fairness. When we met in person, he asked me, why do you think everybody keeps doing this in the discipline? I responded, as a good student would do, invoking what later became known as Kaplow and Shavell's two-step optimization: there are many reasons why it is not desirable to use private law instruments to redistribute wealth and to pursue distributive justice (Kaplow and Shavell, 1994). But at that point I realized, Calabresi was not ignoring those arguments when asking the question; he was asking something deeper. Calabresi was concerned that the formulation of the social objective overlooked what humans desire. We need to include justice and fairness in the objective function, because we, as humans, care for those values, and are willing to trade wealth for those values. Kaplow and Shavell's argument applies to the choice of instrument (how to best pursue the fairness objective) but should not undermine the choice of the objective. Most law and economics scholars have taken out fairness from the social objective function altogether. Fairness no longer appears in the analysis, not even as an aspirational goal.

2.2 Calabresi again

The subsequent encounters with Guido Calabresi (most frequently at conferences in Italian universities, or during his visits to Siena and Bologna) always brought new challenging perspectives into my way of thinking. In 1996, Calabresi was the keynote speaker at the 6th Annual Meeting of the American Law and Economics Association in Chicago. He recalled that during the early years of his career, he advanced the idea of using tort law to spread the loss

between a faultless tortfeasor and an innocent victim (Calabresi, 1965). This approach was similar to what legal systems already do under a comparative negligence rule, when tortfeasors and victims are both negligent. Thirty years later, Calabresi, now sitting as a federal judge, was surprised that his idea of spreading the loss between non-negligent parties had not been taken seriously by academics and courts: "Where neither side is at fault, we still remain subject to all-or-nothing rules. In the absence of defendant fault, innocent plaintiffs bear the whole loss in most areas, while in so-called non-fault liability areas, defendants bear the entire loss where neither party is at fault." (Calabresi and Cooper, 1996:877)

Calabresi saw a lot of potential in his loss-spreading rule, including that of promoting a fair allocation of the loss between parties that contributed to the creation of a loss, when neither of them was at fault. But, since fairness and distributive justice were not part of the criteria for evaluating alternative legal rules, for more than thirty years, mainstream law and economics remained fairly deaf to Calabresi's call. Interestingly, during his presentation in Chicago, Calabresi remembered presenting his 1965 paper idea at the Max Planck Institute of Comparative Law. As a young scholar, his innovative ideas were not given the attention they deserved by the senior Max Planck audience. Ironically, if Calabresi had mentioned the historical antecedent of his proposed rule at the Max Planck Institute for Comparative Law, his ideas might have been taken much more seriously. Hugo Grotius in 1625 had proposed a similar rule in his *De Iure Belli ac Pacis*. Grotius' (1625) rule was adopted in maritime law for ship collisions (sharing of the loss when the collision was not due to the fault of either ships) and in public international law (spreading losses equitably when faultless sovereign states were involved in an international accident). However, Grotius' rule was forgotten by those who drafted the modern European Codes (Parisi and Fon, 2005).

During Calabresi's keynote speech, I was sitting at the dinner table with other colleagues, including my former teacher and advisor Robert Cooter. I asked him, why is it so that in modern tort law nobody considered Calabresi's (and Grotius') rule. His response was simple and seemingly persuasive: it is not possible to create incentives and to do loss-spreading at the same time. What Calabresi and Grotius proposed *de facto* provided a form of partial mutual insurance between tortfeasor and victim in the event of a non-negligent accident. According to the conventional wisdom, that form of mutual insurance, of loss-spreading, would dilute the incentives to take full precautions for the parties involved. A diligent tortfeasor would only be partially rewarded for taking optimal precautions, since he would remain partially liable for the loss

even when acting diligently (loss-sharing). Likewise, a diligent victim would still bear part of the residual loss, notwithstanding his due care. Once again, the general reaction that Calabresi's keynote presentation provoked, as I perceived it, was that there are better ways to spread risks and bring fairness in the allocation of accident losses – no need to do so by undermining incentives. Kaplow and Shavell's two-step optimization was at the core of this general response, where we, as law and economics scholars, focus on the first step of efficiency, and leave the second, often unspoken, step of fairness, for somebody else to implement.

The conference was over, but there were two questions that I took home with me. First, Calabresi's earlier warning was still echoing – optimizing in two steps is ok, but by excluding fairness from the formulation of the social objective, we are not optimizing what humans ultimately desire. Spreading the loss between non-negligent parties seemed fairer and more consistent with what most humans would actually prefer, compared to the all-or-nothing allocations of the loss that are generated by strict liability and negligence rules. Yet, the social objective functions that we use when modeling tort law are not capable of showing the advantages of Calabresi's rule. Second, it was not obvious to me that implementing loss-sharing between non-negligent parties would actually undermine their incentives to invest in precautions. After all, tortfeasors have optimal incentives to invest in precaution when they are threatened with full liability (e. g. under a strict liability rule) for non-negligent accidents. Why would they have diluted incentives to take precautions under a loss-sharing rule, under which they would face partial liability for non-negligent accidents? And the same argument could be formulated for the prospective victim. Victims face full incentives to take precautions even when taking precautions does not entitle them to compensation (e. g. under a negligence rule). Why would they not have incentives to take precautions under a rule that rewards their diligence with partial compensation (loss-sharing)?

2.3 The follow-up research and its protagonists

This was the beginning of my research on loss-sharing for non-negligent losses. Proving my intuition, that spreading non-negligent losses would not undermine care incentives for either party, proved to be more difficult than I anticipated. Notwithstanding my initial intuition, I could not come up with anything close to a general proof. I needed to find some smart coauthors. So, I contacted two people I considered ideal for the task, one for his creativity and intelligence, and

the other for her distinguished mathematical background. The two people I contacted were Giuseppe Dari Mattiacci, still a graduate student at Utrecht University, and Vincy Fon, a professor of mathematical economics at George Washington University.

We began writing a paper titled "Comparative Causation." It was a 3-author team. The team worked together until version 162 of the paper. At that point, Giuseppe Dari-Mattiacci dropped out of the team. He would probably still be a graduate student at Utrecht if he had continued to spend time working with us. Version 534 of the paper was eventually published in the American Law and Economics Review in 2004 (Parisi and Fon, 2004).

The ideas born during Guido Calabresi's dinner speech led to a very prolific collaboration with Vincy Fon (with whom I subsequently wrote a few dozen papers and a book) and Giuseppe Dari-Mattiacci (with whom I have written and continue to write the best papers of my career). I am so glad that version 534 of the Comparative Causation paper was accepted for publication, even if that final iteration of the paper, still did not have a general proof of what we wanted to show. The Maryland Law Review later organized a symposium to discuss Calabresi's idea, and on that occasion, I highlighted the historical antecedent of Calabresi's idea and Grotius' earlier writings on loss-spreading between non-negligent parties (Parisi and Fon, 2005). Here, I should mention another accidental encounter. I remember presenting the Comparative Causation paper at a conference in India, at the Delhi School of Economics. There, I explained the results of the paper were not as strong as we would have liked, since we did not have a general proof. Six years later, I received an email from an Indian professor, Ram Singh. He told me that he was a PhD student at the Delhi School of Economics and that, after attending my presentation on Comparative Causation, he had been working to find a general proof of our results. He sent me his work, and we published a follow-up paper proving that it is always possible to spread the accident loss between non-negligent parties without undermining their incentives to undertake optimal precautions (Parisi and Singh, 2010).

Loss-spreading is thus fully compatible with optimal care incentives and deterrence in tort law. The question then became, when is it desirable to spread the accident loss, rather than adopting the all-or-nothing solutions of conventional tort rules? This question was addressed in Dari-Mattiacci et al. (2014), and more extensively in a paper published in the Journal of Legal Studies with my former student, and now colleague, Alice Guerra and with my Bologna colleague, Emanuela Carbonara (Carbonara et al., 2016). In that paper, we recast the cheapest cost avoider principle in light of the possibility of spreading accident losses between non-negligent parties.

2.4 Remaining young

Most of my research during the last several years involved some of my former students and current students as co-authors. In my research, looking back, the average age of the co-authorship team stayed about constant. Soon, I'll need to recruit my coauthors in elementary school, or get a larger team of co-authors to keep the average down.

These collaborations have in many ways helped me stay young in my research. After stumbling into the first law and economics class at Berkeley, the Tort Theory and Policy seminar, I remember being under the impression that the field of tort law and economics had been exhaustively studied. Two comprehensive books had been published, almost simultaneously, by Harvard University Press: Landes and Posner's, Economics of Tort Law (Harvard, 1987) and Shavell's, Economics of Accident Law (Harvard, 1987). Papers in the field of tort law and economics were becoming increasingly complex and were analyzing narrow and less appealing legal issues. The same seemed true in other standard fields of law, such as contracts. The search for low-hanging fruits, in my mind, was to move towards other fields. As a result, in my early research, I ventured into less explored fields, such as conflict of laws,[5] international law and European Union law,[6] social norms and decentralized law,[7] reciprocity,[8] tax law,[9] Biblical law,[10] public choice and collective decision-making,[11] lawmaking,[12] jury design,[13] litigation,[14] comparative law and economics,[15] irrational behavior,[16] terrorism and cybersecurity,[17] etc.

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5 Parisi and O'Hara (1998); Parisi and Ribstein (1998); Ghei and Parisi (2004); Carbonara and Parisi (2009).

6 Bertolini and Parisi (1996); Bussani et al. (2003); Parisi (2004b); Parisi et al. (2007); Stephan et al. (2003); Carbonara et al. (2009); Fon and Parisi (2007a, 2008b, 2009b); Kontorovich and Parisi (2016).

7 Klick and Parisi (2008); Parisi (1998b); Carbonara et al. (2008a, 2012); Bernstein and Parisi (2014).

8 Fon and Parisi (2003b, 2008a, 2008c).

9 Klick and Parisi (2005a); Curry et al. (2007).

10 Parisi (2001); Parisi and Dari-Mattiacci (2004).

11 Parisi (2002a); Dari-Mattiacci and Parisi (2005, 2014); Dari-Mattiacci et al. (2007); Dari-Mattiacci et al. (2009); Parisi (1998a); Klick and Parisi (2003); Parisi (2003); Luppi and Parisi (2012a).

12 Parisi and Ghei (2005); Carbonara and Parisi (2007); Fon and Parisi (2007b); Carbonara et al. (2008b); Luppi and Parisi (2009); Parisi and Fon (2009); Cooter and Parisi (2009a); Parisi (2011).

13 Luppi and Parisi (2013).

14 Luppi and Parisi (2010); Fon and Parisi (2006); Fon and Parisi (2003a, 2005); Luppi and Parisi (2012b).

15 Luppi et al. (2012); Ginsburg et al. (2014).

16 Parisi and Smith (2005).

17 Garoupa et al. (2006); Grady and Parisi (2006).

My graduate students, with their questions, term papers, and dissertations, brought me back into the beautiful core fields of law and economics, such as the Coase theorem,[18] contracts,[19] torts,[20] property,[21] evidence,[22] competition law,[23] and general methodology.[24] These students offered fresh perspectives, and opened new research horizons into topics I thought had been fully studied. There were entire unexplored rooms, possibly bigger and more fascinating than those that had been explored by the existing literature. Here are a few examples. One day, my University of Minnesota J.D. student, later EDLE Ph.D. student, and now professor, Daniel Pi, asked in class: "Professor, what do you mean by tortfeasor's precautions and victim's precautions? When we take precautions, we are just being 'careful' to avoid accidents, we do not know what role we will have – tortfeasors or victims – in the event of an accident." Indeed, in so many situations, we take precautions under the veil of uncertainty, and some precautions play a dual role, reducing the risk of accidents in general. Do existing liability rules incentivize those dual-function precautions? Wow, what a fundamental question he asked! It definitely deserved a paper, which we indeed ended up writing (Luppi et al., 2016). The paper showed that not all liability rules incentivize the adoption of dual-function precautions. Another recent example. My Bologna student, and now colleague, Alice Guerra asked: "Professor, are we sure that tortfeasors and victims react to liability rules symmetrically as predicted by the model?" Indeed, if that basic assumption does not hold, most of the predictions built on tort theory would fall apart. In a recent experiment, we tested that symmetry assumption and discovered that, although on average the symmetry assumption generally holds, there are interesting differences in the behavior of tortfeasors and victims (Guerra and Parisi, 2020).

Other work with Ariel Porat and two of my colleagues in Bologna, Maria Bigoni and Stefania Bortolotti, brought me back to a core topic of private law, efficient breach, to address one of Calabresi's fundamental questions (Bigoni et al., 2017). Posner, both as a scholar and as a judge, argued that efficient breach (of contract) is efficient breach, and according to US common law, the motive for the breach should be deemed irrelevant. Whether the breachor breaches to pursue a gain or to avoid a loss, as long as he is willing to

18 Luppi and Parisi (2011); Posner and Parisi (2013).
19 Parisi et al. (2011); Parisi et al. (2013); Bigoni et al. (2017).
20 Dari-Mattiacci and Parisi (2003); Dari-Mattiacci et al. (2014); Luppi et al. (2016).
21 Parisi (2002b).
22 Guerra et al. (2018).
23 Guerra et al. (2019).
24 Posner and Parisi (1997, 2002); Parisi (2004a); Klick and Parisi (2005b); Parisi and Rowley (2005); Cooter and Parisi (2009b, 2009c); Parisi (2017).

compensate the breachee for the forgone profit, he should be allowed to breach. But are human reactions aligned with what the law prescribes? It turns out they do not at all.

Browsing through some of the panels at the 2019 EALE conference, I had a good feeling of freshness. Presenters and organizers are no longer looking for narrower, unaddressed topics, nor are we trying to find low-hanging fruits in unexplored areas of law. Unlike what we saw in past years, the panels had titles such as Torts, Contracts, Criminal Law, etc. We were not trying to be innovative by carving new niches or naming esoteric fields. The papers I heard were fascinating and novel for bringing new methodological challenges into the core, essential questions of the law.

My own research over the last few years revived the questions that Calabresi raised when I first met him in the early 1990s. My students and younger colleagues are bringing experimental evidence and data that makes the discussion fresh and intellectually compelling. Should the law conform to human preferences, rather than to the economic social welfare function that we have been using in our discipline, which omits important components of human preferences in the objective social function? We are not going to answer this question here, no worries. But we should hopefully leave with an open question.

2.5 Becoming a "prolific" scholar

I should conclude with a brief note of gratitude for the person who has been the most important encounter in my career, my partner and co-author Barbara Luppi. After she gave birth to my fifth and sixth children, my beautiful daughters Paola and Francesca, I officially accepted the title of "prolific" scholar. What a wonderful woman and brilliant scholar Barbara is. My four older children, Maria Chiara, Raffaele, Elvira Caterina and Anna, and their loving mom, Carmela, have supported me during my years of study and work, following me from California to Louisiana, and from Virginia to Minnesota. I have been blessed by their love.

So much gratitude also goes to the many friends and scholars who contributed to my scholarship, most importantly to those young rising stars and doctoral students, who, over the years, invited me to serve on their dissertation committees, or enrolled in my classes, allowing me to grow younger in my scholarship: Giuseppe Dari-Mattiacci, Ben Depoorter, Daniel Pi, Alice Guerra, Jonathan Klick, Matteo Rizzolli, Enrico Baffi, Marco Fabbri, Nita Ghei, Frank Fagan, Gregory LaBlanc, Laarni Escresa, Joyce Sadka, and so many others. Thanks to them, year after year, this intellectual tradition and friendship

continues, with the smile and human connection that each of them, students-turned-colleagues, deans, or presidents of associations, are granting to me, in deeper and truer ways.

3 Conclusion

My academic life has progressed through a series of fortunate accidents. This is not an exercise of false modesty, but I ultimately think that this award was also given to me by mistake. During these months, I could think of many colleagues, some of which I see sitting here today, others absent for more pressing academic or administrative duties, who deserved this award more than me. But as for all the fortunate accidents that brought me to where I am today, I am very grateful for this award. Although most of my early academic career took place in the US, as you heard from my story, all of you, European friends have played an enormous role in the evolution of my career and scholarship. You made my academic life interesting and truly fun. Hence, it is a great honor to receive this award from the European Association of Law and Economics. I am grateful and humbled.

Link to video

https://www.youtube.com/watch?v=lRwBq8EW-Tg

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