

## LAUDATIO

“Today we honour Judge Guido Calabresi, Professor emeritus and former Dean of Yale Law School, for his innovative and path-breaking work in the field of economic analysis of law. It is no exaggeration to say that I would not be standing here today as a professor of Law and Economics if Guido Calabresi had not paved the way for introducing economic analysis into legal academia. To make interdisciplinary adventures, such as Law and Economics, successful, you need at least two intellectual heroes. On the side of the economists, there is Ronald Coase, who received the Nobel Prize in Economics in 1991. On the side of the lawyers, there is Guido Calabresi who elaborated upon Coase’s central ideas and showed their relevance for the legal debate. Given the absence of a Nobel Prize in Law, we hope that awarding a doctorate *honoris causa* may be a modest but effective substitute to honour his great intellectual achievements.

Guido Calabresi wrote several contributions that had a decisive impact on the development of Law and Economics research. He is the main author of the most cited paper in Law and Economics: “Property Rules, Liability Rules and Inalienability: One View of the Cathedral” published in the *Harvard Law Review*, 1972, 1089. In this article, Calabresi extends the original ideas of Ronald Coase, according to whom the initial allocation of property rights has no impact on efficiency in the absence of transaction costs. Guido Calabresi carries this approach further by introducing the distinction between property rules and liability rules and assessing the efficiency of either rule in the presence of transaction costs. This distinction has proven to be extremely useful for understanding and evaluating different types of legal protection of entitlements in various fields of law, ranging from nuisance disputes, to the protection of the environment, the law on privacy and intellectual property rights.

In his article “Some Thoughts on Risk Distribution and the Law of Torts”, which is one of the most cited articles of the Yale Law Journal and in his book *The Costs of Accidents*, Guido Calabresi laid the foundations of the economic analysis of tort law. In Calabresi’s view, the major goal of liability rules is to minimise the costs of accidents. Calabresi’s framework accommodates concerns of both efficiency and justice. Efficiency is enhanced by deterring harmful activities and thus reducing the primary costs of accidents. Justice considerations find their place when the goal of optimal risk-spreading, - in other words, the reduction of secondary costs - is assessed. Tertiary costs are the costs of the legal system to establish and enforce liability. Both primary and tertiary costs may be reduced by putting liability upon the shoulders of the ‘cheapest cost avoider’. Up until today, the classification of costs into three categories and the Calabresian concept of the cheapest cost avoider provide a powerful structure to organize discussions on the strengths and weaknesses of diverging liability rules in various areas of tort law.

Obviously, this short laudatio cannot do justice to the impressive work of Guido Calabresi. For better appreciating his contribution to the economic analysis of law, I refer to the special issue of the Erasmus Law Review which is published today. It includes four articles, all written by European scholars, which highlight the impact of Calabresi’s writings on legal scholarship and judicial decision-making, not only in the US but also in Europe. All contributions confirm the role of Guido Calabresi as an intellectual hero in the development of Law and Economics. For these extraordinary intellectual achievements the Erasmus University confers upon him the doctorate *honoris causa*.”

Prof. Dr Roger Van den Bergh