

## Social Function of Law and Growing Wealth Inequality (Report on XIII. Dies Luby Iurisprudentiae Held on September 28<sup>th</sup> and 29<sup>th</sup>, 2017)

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**Abstract:** *Report on XIII. Dies Luby Iurisprudentiae – the International Scientific Conference of the Faculty of Law at the Trnava University in Trnava, Slovakia.*

**Key Words:** *Report; International Scientific Conference; Dies Luby Iurisprudentiae; Faculty of Law; Trnava University in Trnava; Slovakia.*

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The thirteenth year of international scientific conference which has been, as traditionally every two years, organised by the Štefan Luby Foundation and the Faculty of Law at the Trnava University in Trnava at the Smolenice Castle was running in pleasant atmosphere. The topic of this year's Dies Luby Iurisprudentiae, *Social Function of Law and Growing Wealth Inequality*, was an idea of Professor Lazar and the current dean of the Faculty of Law of the Trnava University in Trnava has noticed that we would hardly find topic which could be more up-to-date and urgent. During the introductory speech, Associate Professor Olšovská pointed out that “the scissors” of wealth inequality are opening faster than we could have imagined in 1989, when the socio-political changes occurred. Re-

garding to the intention to create fair social and economic environments, it can be argued whether this has indeed been achieved or not. With an intention to help to create a legal framework of the life of society, many domestic and foreign guests have prepared their conference contributions which were presented during the conference.



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Professor Lazar highlighted in his opening speech the role of using available resources of public and private laws to solve the problems of growing property polarization, which are in conflict with the economy market in Europe. He also noted that there are many questions concerning the extent of wealth inequality, because polarization on the world scale is still growing, economic power is proportional to our own capital and we are slowly moving towards the world in which large corporations will be as a State. This exceeds the legal topic, but the social and ethical implications of inequality are also questionable.

Contribution of Professor Tatjana Josipović on the topic “Social Role of Private Law in the Financial Crisis” described the impacts of the financial crisis on private law based on new restrictions of freedom, new interpretations of law and new conditions for traders. Professor from the Faculty of Law of the University of Zagreb also spoke about the role of private law in the field of protection of citizens, its impact on the fundamental principles of private law as well as related perspectives.

Faculty of Law of the University of Novi Sad was represented by Professor Dušan Nikolić who in the introduction of his contribution entitled “Social Equilibrium and Justly Private Law” talked about the common wealth and social equilibrium. He described the tradition of the bourgeoisie in the 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> Centuries and pointed to its repetition in the history. He also mentioned the social role of law and expressed the wish that “things move” towards equitable private law.



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Professor Evgeny Alekseevich Sukhanov from the Faculty of Law of the Lomonosov Moscow State University described in his contribution “The New Reform of the Russian Company Law and the Rights of “Small” Members of the Public Limited Companies” the risks with which the so-called “small members” of the public limited companies may encounter in realising their rights, regarding to new reform of the trading companies in the Russian law.

The issues of the so-called “anti-tying rule” explained Professor Christiane Wendehorst from the Faculty of Law of the University of Vienna in her contribution called “A Paper on Personal and Other Data Given as Consideration for Digital Content and Services”. She put forward a question whether in today’s world in digital environment trading with human rights occurs. She also considered whether the nature of contract law in relation to the protection of personal data is autonomous or sup-

plementary. The answer is the view of situation in which the contract law is successively replaced by the general data protection regulation and thus already fulfils an additional function.



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“Protection of Family in Social and Legal Context” was the contribution of Professor Marek Šmid and Associate Professor Mária Šmidová, both from the Trnava University in Trnava. Associate Professor Mária Šmidová described the social function of law and the protection of family in a stressful situation caused in particular by the birth of a disabled child. She also talked about equalising opportunities which is the process of delivering something that people with disabilities are missing contrary to the others and what the others do not need. Finally, she expressed the idea that the benefit is the issue of society and not of a person with disability.

Professor Aleš Gerloch from the Faculty of Law of the Charles University in Prague pointed out in his contribution entitled “Law: Equality and Inequality” that people in fact are not equal. He also highlighted some moments in our history when the inequality was stated in the Constitution. For example, in years 1918 – 1920 it was accepted that the President may be the same person for a maximum of two election periods, but Tomáš Garrigue Masaryk used a constitutional exception, so he stayed in a function of the President four times in a row. The similar hap-

pened with the so-called Lex Svoboda which, despite the general adjustment, was applied only once – in year 1975, when it was adopted. Professor Gerloch ended his contribution with the idea that legislation not only helps to offset inequality but also gives power to increase inequality. According to him, “the right is there for the stronger to not do anything.”



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Institute of the State and Law of the Slovak Academy of Sciences was represented by Doctor of Sciences Eduard Bárány. “Social Justice in Law” is one of the topics about which can be said a lot. Idea for his contribution was inspired by information from the mass-media environment. The dramatically increasing wealth inequality updates the topic of social justice which has been discussed. According to Doctor of Sciences Bárány, “nowadays, an ever smaller percentage of population owns a larger percentage of world property.” He also pointed out that it is important to study the impacts and consequences when setting the rules. He noted that the concept of social justice is a reaction on the immoral realisation of the State policy. In his idea, only the conscious regulation of social life can help the social justice.

Professor Jan Hurdík from the Faculty of Law of the Masaryk University in Brno dealt in his contribution entitled “Equity of Private/Civil Law” with the concept of ideal justice for this world. As an ideal justice he considers the distributive justice. He also explained the possibilities of



distribution potential, the concepts of justice and the hopes of justice. He noted that civil law is the base by which “the redistribution of social good” can be supported.



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Professor Jozef Bejček, coming also from the Faculty of Law of the Masaryk University in Brno, dealt with the specific status of consumer and the importance of inequality in his contribution called “Equality and Weakness in Private Law as the Will and Representation (or Debate on the Social Consequences of Specific Formal Group Statuses of Private Law Subjects)”. His speech contained lots of interesting ideas. He pointed out that inequality moves the economy, just as it is in the sports. He asked the question whether we have the principle of equality from which there is sometimes an exception or we have the principle of protecting the weaker party from which sometimes the exception is equality. He noted that when it comes to the current trend of understanding to see a weaker entrepreneur as a “quasi-consumer”, weakness in business is not merit worthy of protection if the fair competition works.

Associate Professor Christian Alunaru from the Faculty of Law of the Vasile Goldiș Western University of Arad in Romania described in his contribution called “The Role of the New Romanian Private Law in Counteracting the Growing Wealth Inequality” the new Romanian Civil Code and its importance in the process of elimination of wealth inequality. Ac-

cording to his opinion, there is no contractual freedom in the true sense, because a contract based solely on the free will is modified by law which is imposed on a weaker party and, when concluding the contract, the principle of solidarity should be the key principle.



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“Matrimonial Property Regimes and Their Impact on the Economic Situation of Families and Historical Issues” was the topic of contribution of Professor Piotr Fiedorczyk from the Faculty of Law of the University of Białystok. He pointed to significant matrimonial property relationships and their positions towards the creditors. He talked about historical issues of matrimonial property regimes, particularly with the regard to the “pre-marriage contract”. Professor saw the importance of matrimonial agreements, especially for wealthy spouses or those who were entering to marriage for the third, fourth or fifth time. In Poland, there exists a possibility to conclude the “pre-marriage contract” which is used by approximately fifty thousand pairs annually.

Professor Gabor Hamza from the Faculty of Law of the Eötvös Loránd University in Budapest entitled his contribution “Legal Regulation as a Means to Establish Social Equality”. He talked about the number of laws seeking to modify or to mitigate social inequality and about their impacts on the further developments in Europe. He dealt with some selected articles, for example from the Hungarian Civil Code and other legal regulations.

Will the modern concept of consumer as the weaker party survive? That was the question of Professor Fryderyk Zoll from the Faculty of Law

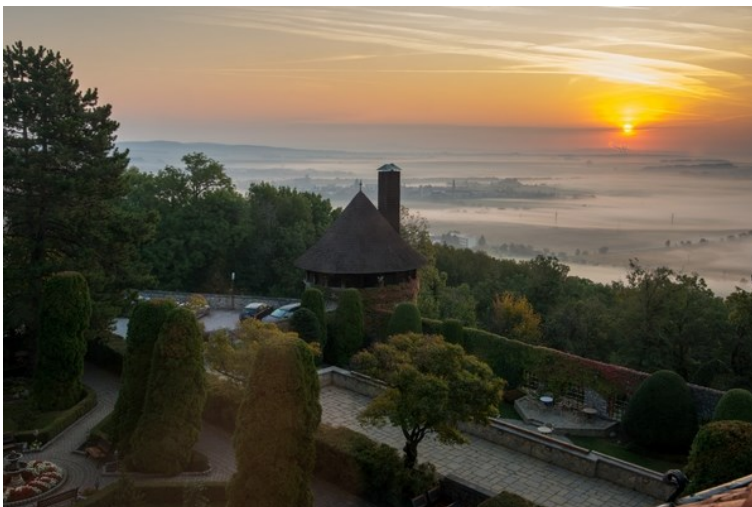
and Administration of the Jagiellonian University in Krakow placed in his contribution entitled "Consumer. Destruction of the Concept". In his view, nowadays it is difficult to identify who can be regarded as the weaker party and that is why the asymmetric information should be the most important differentiation criterion for the weaker party due to the power that the consumer has today on the Internet. According to his opinion, consumer law is without the law and he hopes that one day we will return to the previous concept of classic contractual parties without consumer.

Associate Professor Monika Jurčová from the Faculty of Law of the Trnava University in Trnava mentioned in her contribution called "Tasks for Law in Collaborative Economy" some current topics, such as UBER or AIRBNB. As a result of the booming of the modern technology, we are now at the height of the fourth industrial revolution and collaborative economy which is supported by the European Union is coming to the foreground. On the basis of these changes, personal responsibility of an individual ceases to exist. According to Associate Professor Jurčová, it should be essential to re-evaluate the minimum standards for all and not to try to set the same standards for each case.

Doctor Jan Tryzna from the Faculty of Law of the Charles University in Prague talked in the introduction of his contribution entitled "Factual and Legal Limits of Law in Promoting the Equality Principle" about some examples of different perceptions of forms of discrimination. He drew attention to the fact that promotion of equality in the vertical as well as in the horizontal planes reflects the principle of fundamental human rights. At the end of his speech, he pointed out the limitations in implementing the concept of equality.

The final words belonged to Associate Professor Martina Gajdošová from the Faculty of Law of the Trnava University in Trnava. The presentation of her contribution "Law and Elimination of Wealth Inequality" she began very originally – with telling a story about "Welfare" and "Necessity". Just as the society is accompanied by law, it is also accompanied by wealth inequality that cannot be eliminated. We need to realise that the greatest legal development had been caused by the wealth inequality; therefore, there are the rights to free legal assistance, exemptions from court fees and much more, because "... both the poor and the rich are afraid of becoming poorer." Based on the fairy-tale of good and evil, we have found out that the evil is not increasing wealth inequality; the evil are humans when they do not help each other.





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The thirteenth year of the Dies Luby Iurisprudentiae was extremely impressive, rich in great thoughts, great theories and great truths that will be published in an edited form of conference proceedings. This year was dedicated not only to the science, but also to new friendships, pleasant atmosphere, playing the piano and singing. We believe that in two years we will meet at the Smolenice Castle with new ideas again and we look forward to new interesting topics.

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