



Università  
degli Studi  
di Palermo

Dipartimento di Giurisprudenza  
Dipartimento di Eccellenza



Letter of approval

As the Professor of Legal philosophy,

I would like to provide

this letter of approval for Professor Olga Nickole Kuyan (Papkova), Doctor of legal science, PhD.

I fully support Prof. Kuyan's project "Mehr Licht! Fathers and Children of Justice Human

Right. See Italy and Die" and can also confirm my ability to be her host professor.

I believe hosting such a researcher will greatly benefit our research community through diversity and exchange of ideas. I have enjoyed and had similar success, hosting other international fellows in the past.

Sincerely,

Prof. Aldo Schiavello

# **Research Proposal**

## **Project**

in Human Rights: Innovation, Protection and Limits  
for Sustainability, Diversity and Involvement

Project Title:

**Mehr Licht!**

**Fathers and Children of Human Rights and Justice.**

**See Sicily and Die.**

*Research & Best Delivery Hub: Pontem 0921, Studio Legale Lauricella*

*Principal Investigator: Prof. Olga Nickole Kuyan, Dr, PhD.*

*Host Human Rights Professor: Prof. Aldo Schiavello.*

*Duration: 3-4 years*

*Conditions: 8 000 w.hrs, with the budget 240 000 – 300 000 euro*

### **Abstract**

As the world in which we operate changes, we aim to keep one step in front. The project is for the transformation of human rights protection model. This research into modern crisis time studies the Enlightenment (1789 – 1914), another crisis time, that led to a cultural revolution with a legacy of values that still live today. We take control of evolution and use it for purposes that bring the greatest benefit. We're harnessing the power of evolution, revealing through the diversity of life, evolutionary jurisprudence, the crisis, too. Applying Design, Critical and Complex thinking, being a pioneer, this project treats to describe and explain how human rights can be protected in future, and what to do for it. For us the future is now. We combine lawyering and legal research, following the United Nations Guiding Principles on Business and Human Rights (UNGP) and its next decade project (UNGPs 10+). The research is for sustainability, diversity and involvement. The project, pointing out the inter-systemic character of Living Law, Creativity in Law, Justice Metamorphoses in contexts of legal polycentricity and interlegality, looks at Legal Mindfulness and Legal Mediterranean Lifestyle as contributions to a framework of social values for sustainability transitions and legal ecosystem creation. Our drive is the Energy-Engaged Law, the Sophia energy including - law accompanied by science (quantum physics etc). The research aims to protect human rights and enhance justice globally, with a special focus on Italy, Russia, Islam, Japan. We put forward the idea that Russian Sophiology and Italian Creativity can help to legal services to accept globally the modern crisis challenge to human rights. This business-research is international, multidisciplinary and innovative.

“If you are dark, I will enlighten you”.  
(an apt quote by the hero  
of the Russian film "White Dew", 1983)

Dedicated to my father.

***The research topic. The main question.***

This project intends to analyse the Formatting and the Reshaping the **Relations** between **Human Rights, Justice** and **Reality**. It is to stand up for human rights, to help break down the barriers to justice and to resist threats to professional independence. It follows **the United Nations Guiding Principles on Business and Human Rights (UNGP)** and its next decade project (**UNGPs 10+**).

Meeting these challenges requires an inclusive approach and a broad diversity of perspectives. That is why we have chosen **diversity** and **involvement** as the themes of the Project term. The research is to confront the challenges of a globalised and interconnected world, and to be committed to understanding, respecting and ensuring respect for different cultures and legal systems. It is to welcome and to guarantee a wide array of perspectives by nurturing the exchange of different experiences/ideas/perspectives.

The perennial question posed by the philosophically-inclined lawyer is **'What is law?'** or perhaps **'How to change laws?'** We pose an associated, but no less fundamental, question about law which has received much less attention in the legal literature. It is: **'Who is law for?'**

Our research not for officials, sponsors or others but for you, “whoever you are. Wanderer, worshipper, lover of leaving — it doesn't matter...”. We have an attitude of thought which gives primary importance **to human beings**. For us every person counts. Our research has the humanist emphasis. In this project we're going to see how to really protect human rights through the legal instruments to create the better future today. For us the future is now.

This research is into/for **sustainability**. Sustainability has many different definitions, but its essence is articulated by the 17 Sustainable Development Goals (SDGs), 2015. Sustainability is a complex area to manage. Recently ESG (Environmental, Social and Governance factors) have been changed. We are keeping up to date with ESG developments. Our research intends to increase awareness that a failure to address these matters can be detrimental both financially and socially. To contribute to achieving SDGs, being aware of the most urgent needs for our digitalized and globalised world, we will conduct the **sustainability-minded project** to discover, to navigate a transition to a sustainable future, that means its importance.

This research supports **change**, and also is the change. The crisis has accelerated digitalisation and the transition to a more sustainable way of living. We call upon to not only adapt to a changing economy and society, but to lead positive change on a grand scale.

***How to really protect the human rights through the legal instruments?*** - is the research's main question.

We mean the actual existence of this protection; that which is not imagination, fiction, or pretense; that which has objective existence, and is not merely an idea.

The research will be conducted at Studio Legale Lauricella research-business hub, located in Cefalu (PA), in the Arab-Norman Circuit, unwound between Palermo, Cefalù, and Monreale (UNESCO World heritage, 2015).

With this project we draw everyone's attention to Sicily. Famous worldwide for its great historical, natural, and cultural treasures, Sicily has six **World Heritage Sites**, not to mention its **Intangible Cultural Heritage: Mediterranean Lifestyle**: a true way of life, a regime, both environmentally friendly and good for human health.

***Significance of the Project. The state of the art.***

The sovereignty of states to enact and enforce laws within their jurisdictions has been recognized since the Treaty of Westphalia in 1648. There are now, however, accepted global legal norms that hold states accountable for not complying with them in a national legal regime: health, climate, justice, human rights, environment etc.

From political/justice crisis we have passed to multi-dimensional human rights catastrophe. The time to act is now, otherwise we will miss the challenges of our generation and irremediably jeopardise the wellbeing of future generations. Social inequality and widespread poverty press for new solutions to build a better world. The COVID-19 pandemic that has shaken our world has put this inequality into stark relief, hitting the world's vulnerable the hardest. The future of our planet is in danger, demanding immediate action. Despite wide recognition that justice (art 47 ECHR) is one of the most basic rights of democratic citizenship, unfulfilled legal needs are at a tipping point in many parts of the justice system around the world. The Justice Crisis assesses what is and isn't working in efforts to improve civil and family justice. It is enlightened in "***The Justice Crisis. The Cost and Value of Accessing Law***", ed by Trevor C.W. Farrow and Lesley A. Jacobs, (2021), in the papers by A.Schiavello "***La grida canta chiaro***"...o forse no. ***Qualche osservazione a partire da un esercizio di interpretazione giuridica; L'insostenibile leggerezza dell'incertezza del diritto***, (2020), dealt with the structural vagueness of the legal measures enacted by the Italian legislator to manage the Covid-19 pandemic. A.Schiavello asks: Can we demand more certain norms? Is personal liberty taken in due account by the legislator? An era of innovation is disrupting and overturning old ways of organising and working, presenting new challenges and opportunities. The legal profession is at the threshold of fundamental change.

This research is the first project-length treatment to present new challenges and opportunities for human rights protection through legal instruments, describing and explaining how legal orders can be interwoven, and what to do about it. Coining the terms “**inter-legality**” and “**legal polycentricity**” this project provides research on the history, human rights, justice, as *primary areas of inter-legality and legal polycentricity*, the concepts of Legal ecosystem, Integral Ecology, Legal Mindfulness, Evolutionary Jurisprudence, Legal Mediterranean Lifestyle, and normative developments prompted by inter-legality and legal polycentricity.

**Description of the project. The special aims.**

**Human Rights and Justice.** Research points out the inter-systemic character of Living Law, Creativity in Law, Justice Metamorphoses in contexts of **legal polycentricity** and **interlegality**. The research’s background is **the transformations of law beyond the State**.

We begin with Michael Polanyi. His ‘polycentricity’ was a method of decision making where numerous decision makers mutually adjust their decisions to their expectations of what will pass muster with the community of decision makers, without the use of any common blueprint. We’ll argue that Polanyi’s idea of polycentricity—once disentangled from Lon Fuller’s borrowed, but unrelated, use of the term—has the potential to illuminate much for lawyers.

From several elements in human rights law’s functioning that are liable to come across as ‘muddling through’, polycentricity helps us glean a sophisticated philosophical method primed to cut through difficult moral problems.

Against such a background we propose to conduct the research using **analytic philosophy** and **science** (quantum physics, quantum mechanics, optics etc)

The project intends to apply **scientific areas** in **two ways: the question under study; the Puzzle**.

We distinguish **Research Topic** from **Research Puzzle**. A puzzle is a question that heads toward a concrete answer, deals with possible objections, is transparent about using a methodology appropriate to its success conditions, and in principle is unsolvable without the help of, at least some, empirical data. The following example clarifies this difference:

Our research question is: *What do the positivist and the living law's proponent have to say to each another on the role of a judge in human rights protection?*

Quantum theory puzzle: *What quantum theory findings (e.g. Davide Fiscaletti's) are more or less compatible with the role of a judge in human rights protection?*

Starting from the quote by Aleister Crowley, written in Cefalu: “*Science is always discovering odd scraps of magical wisdom and making a tremendous fuss about its cleverness*”, we move through the Carlo Rovelli **Helgoland** (2020) to the conclusion that **Emptiness (no-self) is the essence of Justice and human rights**. We put it for discussion.

**Mehr Licht!** The theory of evolution is among few ideas in intellectual history have been so captivating that they have overflowed the discipline from which they came (the model of natural selection created by Charles Darwin) and spilled over into everything else.

One of the central purposes of this research is to bring to light the **evolutionary jurisprudence**. At the turn of the twentieth century however each of the influential evolutionary models in jurisprudence was closely tied to a particular political view about the role of the state in the allocation of scarce resources. Within such a fundamentally political paradigm, the question how the law itself evolves was little more than a detail.

Today every idea of jurisprudence to resolve the current crisis incorporates a theory of change, but not every theory of jurisprudence qualifies as 'evolutionary.'

We propose the evolutionary theory of **Energy - Engaged Law**. The challenge of energy-engaged Law is a new perspective on Law. The ideas of Carlo Rovelli and the discovery of self-consciousness in reasoning that mark the beginning of the modern era contribute greatly to our understanding of **Energy-Engaged Law as evolutionary**.

Starting with Ernest Shurtleff Holmes's **the Science Mind**, a practical philosophy for abundant living, we're going to conclude that our jurisprudential theory explicitly focuses on legal change and makes use of a particular model to explain how legal change occurs.

We pay attention to the idea by Henry Adams in the best-known autobiography of **the Progressive Era**: the model had the potential to lead "to some great generalization which would finish one's clamor to be educated". "Natural selection seemed a dogma to be put in the place of the Athanasian Creed . . . ."

We put **Mindful approach** to law and legal services into **the transformations of law beyond the State**.

At the end we aim to resolve the dichotomy: **Real Human Right Vs. True Human Right**.

We're going to conclude: *when human right is real, it always finds a way to be protected through legal instruments.*

**See Sicily and Die!** We look at **legal mindfulness** and **Legal Mediterrarenean Lifestyle** as contributions to a framework of social values for **sustainability** transitions and **legal ecosystem** creation.

Starting from **the Evolutionary ideas** during the period of **the Enlightenment**, we propose a new path to spiritual awakening: **the evolutionary enlightenment**.

We forward the idea that the **Medeterranean approach to evolution** is the respect for human rights, the support for everyone: physical persons, small scale producers, cooperatives, big companies, and the involvement of everyone in well being. "Come, come, whoever you are.,,"

**Our special aim is** to create **the Legal Meddeterranean Lifestyle ecosystem**, the scientific value, the healthy high standard of living and legal service delivering for everyone.

We forward the idea: a true way of life and work, the Mediterranean lifestyle is good for your health as well as bringing social, economic/labor, integral ecology and legal service delivering benefits.

It is not only about food, but also about **sustainability, integral ecology and the human rights protection** through legal instruments. We are convinced that **local** and **global** can be complementary, and that it is possible to transmit local values and traditions on a global scale in the respect of sustainability.

We see the modern/future Enlightenment in **integrating East and West in a new vision of evolutionary jurisprudence**.

C. Rovelli's **Helgoland** (2020) pushes us to tear across a universe made, not of particles, but of the relations between them. Relationships take place at all levels and among all species in networks and systems, in many ways which we overlook or simply do not know about. And in considering solutions to the current crisis, we aim to propose the comprehensive solutions which consider the interactions within and with systems.

It flows from **the theory of everything (TOE or ToE)**, from the understanding that everything is closely related. Against this background we aim to analyse the interaction between **interlegality, legal polycentricity and integral ecology**. Integral ecology is a key concept in project's parts on human rights and justice.

We intend to compare the ideas from **Russia, Italy, Islam and Japan**, applying **Practical Philosophy**. We don't aim to get lost in the labyrinth of symbols that distance us from reality. We aim to motivate positive action that can create a better world.

Putting Mindful approach to law and legal services into the Interlegality, the research proposes to reconstruct the supra- States law. In this regard, the issues concerning supra-States law the research offers for discussion are the **Sophia** and **the Creativity**.

We take **Russia** and **Sicily** as case studies for the birth in Sicily and Russia of a formidable power incomparable with the rest of the world, an intellectual determined to reform, changing the institutions, values and culture of the Old Regime. **Sicily** and **Russia** make the differences, in the good sense.

We use innovatively **the decoloniality of knowledge** to re-learn **Sicilian and Russian heritage** that have been pushed aside, buried, discredited by the forces of modernity.

From Russian Enlightenment legacy we take **Sophiology**. We put forward the "In**Sophianation**" which means the wide-spreading Sophiology, accompanied by modern science (quantum physics, per es). We take the **Creativity** from Sicily, where the fight against the Ancient Regime took shape with **the creation of an original constitutional and republican reading of rights**. We begin with **Domenico Caracciolo**, Thinker and Reformer, a free spirit among the best known of the time, the man who tried to 'illuminate' Sicily.

Tackling this problem obliges us to accept the challenge of **Global Enlightenment**. Our project takes into account the ideas from Islam and Japan, which could connect Russia, Sicily with other cultures.

We intend to investigate whether the Sophia in the Islamic world and Japan can be connected to the modern/future Enlightenment. We put it for discussion.

We put forward the idea that *Russian Sophiology and Sicilian creativity and Islamic and Japanese Sophia, can help to accept globally the modern crisis challenge to Human Rights*. Our rock is the **Mediterranean Lifestyle**, considering it the main road to balance, and a model that can be replicated in other areas of the world. We intend to show this in our project.

We pay attention to the **American special reading of rights** which has influenced on Russian and European legal order.

***Fathers and Children.*** The research intends to study **history**, to study change. We begin with **Humanism** and **Enlightenment**, the words associated with the birth of **rights-bearing Man**.

Starting from **Italy, Florence**, in the last decade of the fourteenth century, **humanism** brought new lymph to the life. The **humanist** emphasis on the value and importance of the individual brought about social and political change in Europe. **Enlightenment humanism** was more advanced than Renaissance humanism in its secular orientation.

To understand our present crisis we look to **Enlightenment humanism history** for answers. We're going to illuminate the successes and failures of the past to find way out the modern human rights and justice crisis. We turn to the values of the long nineteenth century, 1789 – 1914. Having knowledge of Enlightenment history allows us to see where we are coming from, which in turn allows us to understand our present. It not only reveals the past, but it also helps us create a better future.

We see **Humanism** and **Enlightenment** as a cultural revolution with a legacy of values that still live today. Their legacies endure in our times, whether we aspire to orient ourselves by them or contest their claims. Whenever norms of secularism, human rights, or justice are debated, we are positioning ourselves vis-à-vis the Humanism and Enlightenment, which provides important resources for **Critical, Creative and Complex thinking**.

We apply **Critical thinking**, to rigorously question the ideas and assumptions rather than to accept them at face value, **Complex thinking** to apply the ability to interconnect different dimensions of reality and **Creative thinking** to have the ability to consider the crisis in a new way, including analysis, open-mindedness, problem-solving, organization, and communication.

We are going to develop the Immanuel Kant's dictum, "*Have courage to use your own reason!*". It succinctly captures the Enlightenment claim of the evolution through courage to use one's own mind without another's guidance. Dare to know! (Sapere aude) is therefore the motto of the enlightenment.

**The specific objectives. The specific questions.**



This proposal is organized in a highly interdisciplinary manner. It focuses on normative structures, case-law, legal realities. The research prioritizes the theoretical framing of supra states transformations of law and the historical-conceptual analysis deploying composite scientific apparatuses interplaying, if needed, international law, constitutional law, private law, procedural law. Also it aims to unite top-level academic study in judicial politics by using research from comparative law, philosophy, theory of law, theories of justice, rights of human being, evolution.

We put our vision into practice.

**Our specific objectives are:**

- *to formate and reshape the relations between Human Rights, Justice and Reality to change the legal service delivering, the human rights protection;*
- *to challenge dichotomous visions of Enlightenment discourses, by studying Enlightenment legacies with the impact of recent developments within natural sciences (quantum optics/mechanics), to analyze its role in the establishment of new Enlightenment vision and the role of the last in the relations between Human Rights, Justice and Reality.*

**It aims to contribute to a definition of real human right vs true human right.** Importantly, all human beings should be treated as ends and not means.

This line of enquiry will make it possible to fill a clear gap in current views of the “**long nineteenth century**”. We intend to fill this gap by investigating, from a global perspective, key aspects of the inter- and supra-state relations globally, taking:

- **Energy (Sophia) as the New Enlightenment language:** Energy is one of the possible concepts for understanding Sophia.
- **The science as the channel of the Enlightenment’s legacies transmission.**
- **The Judicial Discretion (Creativity) as the limit.**
- **Evolution towards global Mindful Approach to law and legal services, global New Enlightenment as its direction.**

All these points have not been investigated satisfactorily.

Bringing together a wide range of sources who stems from a variety of different academic backgrounds, this project aims to answer following **specific questions:**

Could inter-legality and legal polycentricity be linked with regular legal mindfulness and Legal Mediterranean Lifestyle?

How does it affect traditional legal concepts such as 'justice' or 'legal order/legality' or 'judicial discretion'?

How does it affect the legal service delivering and justice achievement?

And what are the normative implications?

### **State of study. Innovation of this research.**

We put here one part of the sources we use, another part is in the "Proceeding with the Study".

Philosophers addressed the question of justice within the structure of social life. Most popular was the social contract with the premise that only those actions, laws, or social structures that have the consent of society are just. The most notable philosophers of the period include Hobbes, Locke, Hume, Rousseau, Smith, Kant, and Schopenhauer. Justice is expressed through preservation of the natural rights of each individual and creation of enabling conditions, through moral education, allowing individuals to pursue their own moral perfection. Rousseau's conception of justice is inherent in the nature of human beings. Kant's conception of justice is grounded in his theory of morality in the form of a categorical imperative. *Inter alia*, Askari Hossein, Mirakhor Abbas (2019), in *Conception of Justice in the Age of Enlightenment* and Mario A. Cattaneo (1984) in *Metafisica del diritto e ragione pura. Studio sul platonismo giuridico di Kant*, confirm it.

That the Italian Enlightenment contributed significantly to the reflection on justice is a known fact, and certified by an extensive more or less specific bibliography. Some names have entered the collective mind: *Cesare Beccaria (Dei delitti e delle pene)*, *Franco Venturi*, *Lodovico Antonio Muratori*, his most significant work, *Della pubblica felicità (1749)*, covers many fields of public administration; the columns of Italian periodicals (among others, the Milanese periodical *Il Caffè*, directed by the Verri brothers and published between 1764 and 1766).

From the Russian flows we choose the *Sophiology*, seeing in Sergey Bulgakov a consistent, staunch propagandist of Solovjev's philosophy, starting with his 1902 article "What gives the philosophy of Vladimir Solovjev to the modern consciousness", which was included in the collection "From Marxism to Idealism." Two figures played a key role in this transition from Marxism to idealism, - *Immanuel Kant and Vladimir Solovjev*. And if in 1901 in *Peter (or Pyotr or Petr) Bergardovich Struve*'s writings we find that Solovjev's liberalism is important to us, the struggle for human rights is important to us, and all this Solov'ev's metaphysics is a dark forest in which it is better not to meddle, then in 1903 P. Struve and S. Bulgakov change their point of view and say that it is Solovjev's metaphysics that is the banner of idealism, and not just of idealism, but of militant idealism, *idealismus militants*. We assure you that in Russian culture the concept of "militant idealism" is born earlier than the concept of "militant materialism." And under the sign of militant idealism, the first Russian revolution of 1905 is taking place. And under the sign of militant idealism, our present research is doing. Precisely militant idealism, not militant materialism we forward for the discussion, *Militant Idealism, accompanied by science*. And regarding the great importance of Soloviev's sophiology we, reflecting the words of *Sergei Sergeevich Horuzhy*, say: "in **Sophianation** without annexations and indemnities." We put forward the "In **Sophianation**" which means the spread of Sophiology, accompanied by science.

Ranging from Italy of *Filangieri* and *Beccaria* to Russia of *Solovjev*, *Bulgakov*, *Berdyayev*, *Koni*, *Struve* we deal with today's great debate on the problematic link between human

rights and market autonomy, between politics and justice, individual rights and community rights, despotism of states and of religions and freedom of conscience.

We've found and studied a lot of modern writings (in English, Italian, Russian) on the Enlightenment reforms, justice, circulation of ideas on justice (*The Justice Crisis*, ed by Trevor C.W. Farrow and Lesley A. Jacobs, (2021), Hossein Askari, Abbas Mirakhor (2019), Frazer Michael (2010), Resnik J, Curtis D. (2007), Imbruglia Girolamo (2020), Beatrice Pinna Caboni (2019), Alibrandi Rosamaria (2015), *Collection of Judicial Reform of 1864* (2015)), etc

With pleasure we've found the writing by Vincenzo Ferrone (2019), *Storia dei diritti dell'uomo. L'illuminismo e la costruzione del linguaggio politico dei moderni*; a lot of studies dedicated to Human Rights, to the gender rights (Makienko M, Panamaryova A, Gurban A (2014), Poole Randall A. (2010), Nicolaus G(2010), Gaarder J (2018), Oppo A.(2008), Khamidulin Artem (2017) Gerashchenko AI (2018)), to a broad field of study covering issues related to the "basic freedoms and rights to which every person is entitled", all have grabbed our attention. There are many topics and researches, fell under the realm of Justice as human right: *Access to Justice and Right to an effective remedy and to a fair trial*.

Justice is the recurring theme of Leonardo Sciascia's works, or rather the lack of it. His sense of justice was pessimistic and disappointed, accompanied by the use of human reason of *the Enlightenment matrix*, however.

Regarding the current crisis, we've found with pleasure the papers (2020) by A.Schiavello "*La grida canta chiaro*"...o forse no. *Qualche osservazione a partire da un esercizio di interpretazione giuridica; L'insostenibile leggerezza dell'incertezza del diritto*, dealt with the structural vagueness of the legal measures enacted by the Italian legislator to manage the Covid-19 pandemic,.

We paid attention to Mysticism and Politics in Voegelin's *Philosophy*.

About discretionary justice we've studied many American/European/Russian writings: R.Dworkin (1963,1977 etc), K.S.Davis (1969), D.J.Galligan (1986), M.Storme (Ed),(1994), H.Snijders (ed) (1996), A.A.S. Zuckerman (ed) (1999), D Abushenko (1999), N.Trocker&V.Vorano (eds) (2005), O. Papkova (2005), F.Francioni (ed) (2007), A.Barak (2006), E.Storskrubb (2008), Graver, Hans Petter (2015); (2018) etc.

We've found with pleasure *Il Rule of law secondo Ronald Dworkin. Qualche osservazione critica* by Aldo Schiavello (2016).

There is the special writing: Schwartz Louis B, *Justice, Expediency, and Beauty* (1987).

The certain number of modern researches regarding *Justice* and *Judicial Discretion* are led in the dimension of political regime: democratic, semi-authoritarian, authoritarian. The American authors write on Discretion, Discretionary Power/Interpretation, Judicial Activism; Italian authors prefer to turn to the creative judicial interpretation, living law; in Russian jurisprudence there is the tendency to use Judicial Discretion and other american standards.

Focusing on the Discretionary Justice and *Ronald Dworkin*, on *A. Schiavello (2020) La scienza giuridica analitica dalla nascita alla crisi*, particularly focusing on *Alf Ross's* approach to law and justice, we're going to draw a general conclusion:

*Judge's ambition to manipulate Justice's object (the law) is bound to be frustrated.*

We apply a *scientific theory of law*, developed by *Alf Ross* throughout his academic career. *Ross* claimed that sentences pertaining to validity of rules must be empirically verifiable. *Aldo Schiavello* in his article *La filosofia "scientifica" di Alf Ross (2018)* shows that in the legal-philosophical debate there is still a lot of space for *Ross* and also for a rereading, through new lenses, some of his theses.

Regarding the impact for social sciences of recent developments within natural sciences (especially the implications of complexity theory, quantum mechanics) we've found with pleasure *Stuart Holland, Juozas Kasputis, Jody Jensen: Advanced Research on the Global Economy, Social Scientific Inquiry in an Age of Uncertainty (2017)*, *Roberto Bin, A Discrizione del giudice. Ordine e disordine: una prospettiva "quantistica", (2014)*.

In the multidisciplinary study of quantum physics we distinguish *Carlo Rovelli (2016) (2020)*.

There is a lack of writings devoted to *Prudentia, Phronesis* in American and Russian legal literature. Mostly Italian specialists write on *Beccaria's* idea, *Prudentia, Phronesis*. *Sophiology* is a study topic of Russian authors, for the most part.

Both *Judicial metamorphoses* and *Happy Justice* aren't the popular subjects of discussions. The majority of writings is devoted to the judiciary problems. *Creative Justice (2017)* by *Mark Bank* examines issues of inequality and injustice, too.

While all these studies are theoretically and empirically very rich, but to our knowledge, no academic research has yet tried to bring together *the Enlightenment legacy of Italy and Russia*, viewing it in a *global legal perspective* with the impact of recent developments within *natural sciences* (complexity theory, quantum mechanics), to analyze its role in the establishment of new reality, of new relation between Human Rights, Justice and Reality.

We basically agree with what has been done by the scientists and we propose to extend the opinions to a "missing case".

### **Proceeding with the study.**

Theoretical area of the research:

<b><i>The legacies of the Enlightenment</i></b>	<b><i>What to study</i></b>
Circulation of ideas on Human Rights and justice in the framework of the art.47 ECHR: What was Justice in the long	Proceeding from: the Kant's <i>Fiat justitia, pereat mundus</i> (1795); -Theory of Justice by Alexander Radishchev, based on Rousseau,

<p>nineteenth century in Italy and Russia?</p> <p>What were the rights of human being?</p>	<p>-The freedom restrictions by the power, following Radishchev A, "<i>Journey From Petersburg to Moscow</i>" (1790)</p> <p>-Marxist theory of justice, based on socialism; On the Jewish Question by Marx (1843): "The idea of the rights of man ... is not an innate idea; on the contrary, it is acquired in a struggle against the historical traditions in which man has been educated up to the present time. ...".</p> <p>We pass to</p> <p>- L Zdekauers "<i>L'idea della Giustizia e la sua immagine nelle arti figurative</i>" (1908);</p> <p>- to the judicial iconography, in particular, starting from "<i>La Giustizia, la spada e la bilancia</i>" by Prof. Mario Varvaro, University of Palermo;</p> <p>- to a woman with a crowned head who wields a sword with her right hand and holds a scale with her left;</p> <p>to analyzing Justice language in the Enlightenment.</p> <p>We promote the idea:</p> <p>Iustitia with a sword and a blindfold means that rights of man are inconvenient politically and economically. Iustitia is censured.</p>
<p>Human rights, Justice and Sophiology, Berdyaev's Androgyne; Islam, Japan.</p> <p>What's Sophiology? What is the Sophia? What's Sophiology in rights of human being? What's the Sophia in Justice and human rights? What's Sophia-Prudentia-Phronesis in Justice? What's Iustitia-Sophia-Prudentia-Phronesis in human rights? What's Androgyne in Justice? What does Androgyne mean for human rights?</p> <p>What's the Sophia in Islam?</p>	<p>Initially we turn to</p> <p>- the teaching on Sophia by VI Solovjev, Solovjev's metaphysics, idealism,</p> <p>- Sophiology, the official Russian paradigm (its content);</p> <p>then we pass to</p> <p>- Berdyaev's <i>The person, in his entirety, is bisexual, androgynous</i>,</p> <p>to see the Sophiology in Justice, in equal rights of men, equal gender rights before the court, also.</p> <p>We have the special attitude to the symbols of <i>Iustitia-Prudentia-Sophia -Phronesis</i>, to the virtues.</p> <p>Going from Kant's prudence (<i>klugheit</i>), Tommaso Briganti's "<i>Pratica criminale delle corti regie e baronali del Regno di Napoli</i>" (1770), we pass to</p> <p>-Antonio Genovesi's re-reading of the doctrine of <i>prudentia</i></p>

<p>What's Tenrikyo (Sophia) in Japan?</p>	<p>(<i>wisdom</i>) and virtues,</p> <ul style="list-style-type: none"> <li>- to his late-eighteenth-century man of government, who is able to put into practice his knowledge, with a view to achieving his own happiness and that of the citizens of his state;</li> <li>- to the logic of knowledge of the Nature;</li> <li>- to Sophia in Islam; Japanese <i>Tenrikyo</i>.</li> </ul> <p>We promote the ideas:</p> <ul style="list-style-type: none"> <li>- “in<b>Sophia</b>nation without annexations and indemnities”;</li> <li>- Iustitia, accompanied by Sophia, Prudentia, findes its practical realization in Phronesis.</li> <li>- Iustitia-Prudentia-Sophia-Phronesis, together, is real Justice, where the need for the issue of gender rights is erased, the rights before the court become equal rights.</li> </ul> <p>To accept the challenge of Global Enlightenment:</p> <p>The Dialogue with Islam, Japan is possible through Sophia.</p>
<p>Human rights, Justice and Living Law, Judicial freedom of decision:</p> <p>What's Living Law?</p> <p>What's Judicial Freedom of Decision?</p> <p>What's Judicial Discretion/Discretionary Power?</p>	<p>With proceeding from the Montesquieu's separation of powers, Ehrlich's “<i>Judicial Freedom of Decision: Principles and Objects</i>” (1903), we take <i>the main characteristics</i> of</p> <ul style="list-style-type: none"> <li>- Enlightened absolutism, Legal Enlightenment, Normative Pluralism, Judicial interpretation, Legal positivism, starting from the writings of Prof. Aldo Schiavello;</li> <li>- judges's activities <i>contra legem, supplendi causa, sine legge</i>;</li> <li>- precedents, <i>stare decisis</i>;</li> <li>- the main judicial reforms (in Germany, France with its influence on Italy and Russia);</li> <li>- the method of <i>François Gény, the Radbruch formula, Holmes's predictive theory, the balancing of interests by Pound and Heck</i> (the supporting materials: “<i>The Nature of the Judicial Process</i>” by Benjamin N. Cardozo, Judge Posner's <i>Reconstruction of Property Theory</i>, R.Dworkin's <i>Hercules</i>, <i>Dynamic Statutory Interpretation</i> by Eskridge, <i>Scalia's new textualism</i>; the sentences no. 274 of 1976 of the Constitutional Court of Italy, no. 10739 of 2015 dalla Cassazione);</li> </ul>

	<p>- the ideas of <i>Ehrlich, Gény, Kantorowicz, Jhering, CB Bonesana, C Esposito, I. Pokrovsky, S. Belyazkin, A. Koni, H Kelsen</i>, etc.</p> <p>we arrive to <i>Living Law supporters and opponents</i>.</p> <p>We propose:</p> <p>Justice as human right is Energy, Practice of Law and the judges can't hide behind the formal text of the law (they aren't <i>bouche de la lois</i>), their interpretative/discretionary activity is creative and full of value options that they should state in their decisions. The discretion of judges increases and with it the need for more effective control. Discretion itself is limit.</p>
<p>The Beccarian idea of Justice:</p> <p>What' the Beccarian idea of Justice?</p>	<p>We study <i>On Crimes and Punishments</i> (1764) and its critics, with special attitude to the Justice Face by Beccaria (without sword and blindfold, with the scale at her foot).</p>
<p>Human rights, Justice and its metamorphoses:</p> <p>What are the matamorphoses in Justice?</p> <p>What is its role?</p>	<p>Initially we turn to</p> <ul style="list-style-type: none"> <li>- the rebel nobile spirits of <i>Alberto Radicati di Passerano, of A. Radishchev</i></li> <li>- to A.Koni's "<i>the insubordination of judges to the passionate demands of public opinion.. is a great guarantee of real justice..</i>"</li> </ul> <p>to share</p> <ul style="list-style-type: none"> <li>- I. Kant's "<i>Have the courage to use your own intelligence is therefore the motto of the enlightenment</i>" (1784)</li> <li>- Bentham's recommendation to judges: "<i>populus me sibilat, at ego mihi plaudo</i>" (1898)</li> </ul> <p>to pass to</p> <ul style="list-style-type: none"> <li>- the confidence in the magistrates (Antonio Genovesi, <i>Lezioni di commercio o sia d'economia civile</i>, 1769),</li> </ul> <p>to continue with the analysis of two cases-metamorphoses and their role for a man, for society, for a man (his rights) in society:</p> <ul style="list-style-type: none"> <li>- the Bruneri-Canella famous judicial and media case that took place in Italy between 1927 and 1931;</li> <li>- the widely publicized Zasluch trial, taken place in Russia,</li> </ul>

	<p>1878.</p> <p>We arrive to Transformation, Evolution, Judges-Mystics regarding Human Rights and Justice.</p>
<p>Human rights and Creative Justice:</p> <p>What's Creative Justice?</p> <p>What's creative legal interpretation? What's creative Judicial Discretion?</p>	<p>We start from Alf Ross's: "the law does not derive its validity form some a priori principles, but from the fact that it is actually applied by the judges (behaviouristic aspect of validity), because they feel bound by the rules (psychological aspect of validity)."</p> <p>We pass to Creative Justice concerning <i>the compensation for non-material damages</i>' proceedings, using:</p> <ul style="list-style-type: none"> <li>- Gabba Carlo Francesco, <i>Sulla pretesa risarcibilità dei danni morali</i> (1896),</li> <li>- Cesareo Consolo G, <i>Trattato sul risarcimento del danno in materia dei delitti e quasi delitti</i> (1908),</li> <li>- Minozzi Alfredo, <i>Studio sul danno non patrimoniale</i> (1909),</li> <li>- Semyon Belyatskin's <i>Compensation for moral (non-property) harm</i> (1910);</li> <li>- the Melchiorre Gioia's <i>doctrine on the compensation for non-patrimonial damages</i>;</li> <li>- <i>the Joseph Pokrovsky's</i> opposition to creative justice;</li> <li>- Russian and Italian law and case-law on creative justice, to demonstrate <i>pro e contro</i> Creative Justice.</li> </ul> <p>We promote the ideas Judicial Discretion and Justice, on Creative Justice definition, Creative legal interpretation, Creative Judicial Discretion.</p>
<p>Human rights, Justice and circulation of Science ideas:</p> <p>What are science ideas, applicable in our study?</p>	<p>Starting from Carlo Rovelli's '<i>There is no such thing as past or future</i>', we proceed with the Antonio Genovesi's <i>Elementi di fisica sperimentale ad uso de' giovani principianti</i> (1779), where he compares his main ideas with the most recent ideas in physics and proposes an original essay on the origins of society, reconciling a traditional conception of universalistic ethics with a social application of Newtonian notions of centripetal and centrifugal forces to unify a universalistic with a utilitarian conception of law and justice, an ideal with reason and a contemplation of the immutable nature of human beings with a descriptive</p>



	<p>analysis of the customs of different peoples.</p> <p>We pass to a theory of everything, Light, quantum optics etc from Newton to Einstein.</p> <p>We promote that Phronesis involves the ability to deliberate well in order to make moral and just decisions that result in action that is discerned as best for human rights, for human flourishing.</p>
<p>To accept the challenge of Globalisation of human rights,</p> <p>to the pursuit of Global Enlightenment, of Well being and Happiness.</p>	<p>Starting with "<i>We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness</i>" (1776, The Declaration USA),</p> <p>we pass to</p> <ul style="list-style-type: none"> <li>- the Antonio Genovesi's <i>It is the law of the universe that we cannot make our own happiness without making that of others</i> (1765);</li> <li>- the idea of the right to happiness (Gaetano Filangieri (1780-88),</li> <li>- Antonio Muratori's <i>Della pubblica felicità</i> (1749)</li> <li>- the principle of conservation and the principle of tranquility,</li> </ul> <p>to arrive in conclusion to <i>Equilibrium, Neutral Mind, Kalokagathia, New Enlightenment</i> etc</p>
<p>Conclusion</p>	<p>New Enlightenment, Russian Sophiology, accompanied by science, and Italian legal enlightenment legacy can accept the challenge of Globalisation of human rights.</p> <p>Berdyaev's Androgyne can resolve the gender rights problems. A person who is androgynous may engage freely in what is seen as masculine or feminine.</p>

**Outcome** we wait for is **our writing** (book) with its practical utilization in policy recommendations that serve the public good on the local, national, regional and global levels.

In communicating our science, we don't seek to put too much emphasis on the information we want to convey. *The works which we do, these witness concerning us*<sup>1</sup>

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<sup>1</sup> John 10:25

**Mehr Licht! Fathers and Children of Justice Human Right. See Sicily and Die** we would title our project.

The title benefits from *Fathers and Children* (1862) by Ivan Turgenev, just like the title of Dostoevsky's *Il delitto e la pena* benefits from Cesare Beccaria's *Dei delitti e delle pene* (1764) or as well as *the long nineteenth century* concept is an adaption of Fernand Braudel's 1949 notion of the long 16th century 1450–1640.

*To See Sicily and Die* in the title benefits from *To See Paris and die* by great Il.Ehrenburg<sup>2</sup>, expanding the famous sentence *See Naples and die*. The phrase "*See Naples and die*" was first recorded by Johann Goethe in his diary (1787) . *Mehr Licht!* (More light! By Goethe) was a plea for increased enlightenment before dying.

**Scheduled work plan.**

The proposal can be realized in three years with one year prolongation .

2021 November -December	Introduction to Inter-legality, Legal Polycentricity, Legal Mindfulness, Creativity in Law, Evolutionary Jurisprudence, Legal ecosystem, Mediterranean Lifestyle including.
2022 January- March	Circulation of ideas on Justice and Human Rights
April-July	Sophiology, Berdyaev's Androgyne
September -December	Living Law and Judicial freedom of decision
2023 January	The Beccarian idea of Justice
February- March	Justice metamorphoses Creative Justice
April	Circulation of Science ideas
May- July	The wellbeing right, the pursuit of happiness
September - Dicember	Conclusion
2024	Formating

2 One of the most effective Soviet spokesmen to the Western world.

January- June	
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We don't pretend to give all thoughts, all cases, all proves and circumstances. *Not everything that counts can be counted, and not everything that can be counted counts.*

### **Management Risk**

Corona virus lockdown etc

### **Methodology**

We intend to use if (and when) appropriate: Decoloniality of knowledge, Case study method, Complex Thinking, Creative research, Legal Analysis, Qualitative research, Sophism, the Delphi method, scientific methods within law/politics, considered from a philosophical perspective, the impact for law/politics of appropriate developments within natural sciences (especially the implications of complexity theory, quantum mechanics), Thinking Hat, Mead's theory, Holonomic brain theory, the Stream of consciousness, TOE Theoretical Framework, Henology, Univocity of being, Critical Thinking, the three sieves of Socrates.

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