

Call for Papers

International Workshop

Justice & Interest / Judicialization

Maison franco-japonaise, Ebisu, Tokyo - *Online*
January 26-27, 2022

September 20, 2021: abstract submission deadline

The International Workshop on Justice & Interest / Judicialization will take place online (via ZOOM) on January 26-27, 2022. It is organized by the French Research Institute on Japan in Tokyo (Institut français de recherche sur le Japon at the Maison franco-japonaise UMIFRE 19, CNRS, MEAE) in cooperation with the program “Justice and Interest” (InSHS, CNRS, field: economic philosophy) and the program “Judicialization of social and environmental issues in France and Japan” (IFRJ-MFJ, FFJ at EHESS and Tokyo University, Institute for Social Sciences). This international conference will bear on issues where the programs intersect, covering three themes in particular: 1°) Definitions, concepts and theories; 2°) Judicialization and governance, governmental legislation and CSR; 3°) Environmental and social justice, lawsuits and judicial decisions. Contributors who work in economic philosophy, law and political sociology in particular are encouraged to submit papers relevant to these themes. Contributions from other closely related disciplines are welcome and need not necessarily be specific to one geographic area, although the focus is on Japan and international comparisons between Eastern Asian countries and Western countries.

In the broad sense of the term, economics as the study and analysis of economic phenomena ceaselessly requires choices to be made. The role of the law, both in the form of legislation codes and judgments in courts intertwines with economics. They are sanctions (positive or negative) that mark the success (or failure) of earlier choices that led to decisions within the effective process of decision-making. This applies not only to the representatives of institutions and authorities in charge, but to all economic agents on the whole. The discipline that has grown under the label ‘*Law and Economics*’ has developed where the two disciplines overlap, intersecting and connecting both justice and interest.

On the one hand, in addition to the philosophical concept in discussion, ‘justice’ refers to institutions whose structures vary according to country and historical period. On the other hand, clearly understood interest (self-interest and mutual interest) can be seen as a plurality of such interests at the forefront of interactions among economic agents. Economics requires first and foremost selecting the phenomena that deserve scientific attention, and calculating inherently unstable equilibria. Law and justice in the courts require assessing what may enter its jurisdiction. Economics then requires theoretical tools to process these factors, while it is the role of justice to hand down appropriate sentences. Both disciplines link reflection on both the ‘material’ and ‘non-material’ aspects of justice (moral and symbolic), allowing the consequences of options retained at each stage of the economic exchange and of the judiciary process to be determined. Both moral judgement and economic calculation bear on the actions taken by agents and under decisions and choices that are never merely neutral. As inevitable as they are, the choices are never purely methodological, as they intrinsically call for ethical, epistemological and ontological positioning. This pertains to the field of economic

philosophy, which provides the means with which to deal with both moral and symbols of what remains an inherently philosophical task.

In the debates on various theories of justice, notably between Rawls and Habermas (where a parallel is drawn between the modern vision of individual subjective rights and views on participative and deliberative rights engaging the citizen in political life), legal actions as a means to assert and claim one's rights or access new subjective rights is a topic that is rarely developed. To change social conditions and related injustice, the analysis of social conflicts and struggle recognition focuses more on political channels than judiciary channels (Honneth, 1992; Pourtois 2002). However, the 'non-material' aspect of social justice (both moral and symbolic), as well as institutional dysfunction, the replication of social structures and other factors including the privatization of decision-making by interest groups, further limit the role of political channels to account for changes in social conditions, as emphasized by Iris M. Young.

Against this backdrop, an epistemological approach to legal action will allow us to discuss further theories on both aspects of social justice — the material and the non-material. Indeed, legal action provides an advantage (whether material or moral) to the litigant and is meant to protect the individual, who is otherwise vulnerable and who seems to beat a disadvantage to develop a positive relationship to oneself without this process. Judicialization and legal mobilization theories, the use of law and going to court, depending on the circumstances, are means to contest and defend the interests of the most vulnerable (see Tilly 1989; Shapiro 1999; Israel 2009, 2020). Such works shed light on judges' authority over bureaucrats, politicians and private actors within the decision-making process, as illustrated for instance by recent environmental lawsuits. The right to challenge administrative decisions provides the judge with control over the regulator, which in turn creates another locus of interaction between State and society. However, the judicialization of politics is subject to normative criticism over the confiscation of democracy by the "power of judges" (Guarnieri & Pederzoli 2002). Moreover, there is inequality in access to courts, accentuated by cost-benefit calculations (there are always matters of trade-off), which determine, on the one hand, whether one chooses to resort to judges or "suffer in silence", and on the other hand, the outcomes of "non-action" or change.

This workshop is interdisciplinary and revolves around theoretical and empirical themes relating to justice and interest, as well as to the judicialization process in both the material and non-material (moral and symbolic) aspects of their connection. Three round-tables will be held.

Round-table I: Definitions, concepts and theories

"Interest", in French Law, is the #1 condition for legal action and the basis of the right to act (art. 31 of the French Code of civil procedure). Nevertheless, "interest" appears to be a vague concept. However, the legal action advantage to the litigator is either material or moral when involving "causes" (discrimination, global warming and climate change, for example). A distinction is made between concepts and legal and philosophical definitions, such as individual interest over self-interest, public and collective interest, involving epistemological debates on the notion of justice. Indeed, where and when justice and interest do intersect, justice is formulated with the help of broad theories from ancient times (Aristotle etc.) to current day (John Rawls, Amartya Sen, Michael Walzer etc.). Research is conducted to explore the notion, gather and compare the diversity of practices and notions with a variety of concepts, theories and models. The main schemes find an order through the reflective attitude philosophy brings at the heart of the debate. An increasing number of works are enriching the interaction of philosophy and economics (as the increase in publications suggests). Those works help to

structure the field where justice and interest(s) interact, in principle and in various forms both in theory and in practice.

Round-table I will be the opportunity to discuss theories of social justice, their criticism, as well as judicialization theories. Submissions under the *Law and Economics* movement and *Critical Law Studies* are particularly welcome.

Round-table II: Judicialization and governance, governmental legislation and CSR

The use of law and courts to defend rights or acquire new ones can be a ‘weapon’ for economic and financial actors to enter new markets or to modify restrictive local regulations. East Asian countries are particularly interesting case-studies with regard to the gradual transformation of the power of administrative tribunals in relation to bureaucracy, which has been analyzed as central to the decision-making process, in reference to the concept of the Developmental-state (Johnson 1982). To what extent and under what conditions would the process of “judicialization” replace the process of “bureaucratization” in response to the rise of globalization and internationalized markets? What meaning does the term ‘good governance’ actually suggest to other than its use by institutions that aim for minimal consistency with the fundamental values of economic and political life? As far as theories are concerned, several questions need to be addressed. The idea that anyhow (all) “institutions matter” (see for instance Rutherford 1994) has spread much wider than economic institutionalist schools which claimed this idea as their own. Now, theories are also distinguished by how they are applied. This is where the law, and justice in its practical aspect create a multifaceted notion of interest(s): public (national or local government) as well as private (from firms where CSR is a well-known form of interest).

Issues raised in Round-table II are not limited to East Asian countries and call for analyses of *law and economics*, political economy and economic philosophy.

Round-table III: Environmental and social justice, lawsuits and judicial decisions

Legal notions of environmental justice and social justice relate to interests for accessing resources (economic, cultural and identity among others) and recognizing collective rights (for instance, the right to live in a healthy environment or in spaces over which groups have rights). Monopolizing the land to which some group lay claim, or exploiting this social group are common actions institutionalized by structures. Such structures challenge the concept of rule of law that underlies liberal political philosophy and the frame to understand freedom claims. In a ‘participatory democracy’, how should citizen take part in the discursive elaboration of the law, if he or she lacks access to the decision-making process? By taking legal action to defend collective interests, does the individual make use of participatory rights that engage him or her in public life? These expressions are crucial in economic and legal philosophy debates, and is undoubtedly due to a pressing social demand. It will be appropriate to question these notions, as well as the actions of the agents of “environmental justice” (special issue “Justice and Environment”, *Review of Economic Philosophy*, 16/1, 2015).

The field where philosophy and economics interact provides numerous areas for scientific research: ideas from this sphere loop back to economics at a scientific level and introduce broader areas for discussion around technically complicated environmental and social issues. Informing this are arguments from disciplines neighboring economics – especially law. Justice is multifaceted and encompasses notions like common good, which economists have disputed from the early times to more recent contributions (Tirole 2016), and the value of *welfare* and *well-being*. Therefore, self-interest and general interest are conveyed both at individual and

collective level. Some difficulties arise when distinguishing the two notions (for instance, Sen 2009) and submissions could be made to find clarification.

Calendar
June 21, 2021: Call for Papers
September 20, 2021: abstract submission deadline (max. 500 words)
October 18, 2021: notice of accepted abstracts
November 22, 2021: provisional program
January 10, 2022: full text submission deadline (6,000 – 10,000 words for papers aiming to enter the selection for publication)
January 26-27, 2022: online workshop (ZOOM)

A Selection of Papers will be considered for publication (to be discussed during the workshop and thereafter)

Abstract submission rules

Abstract word-count of 500 words maximum. Abstracts must be anonymous (for refereeing).

Abstracts and (later) papers can be written in French or in English.

Oral communications will be in English.

Please send to: justice.workshop2022@gmail.com

Reminder: abstract submission deadline is September 20, 2021.

Scientific Coordinators:

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For more information, please visit the workshop page from the portal <http://mfj.gr.jp> (site of the IFRJ-MFJ host institution).