

Ettore Majorana Foundation and Centre for Scientific Culture
President and Director: Prof. Antonino Zichichi

INTERNATIONAL SCHOOL OF IUS COMMUNE
Directors of the School: M. Bellomo - K. Pennington - O. Condorelli

35th Course:

Sotto l'Alto Patronato del Presidente della Repubblica Italiana

**THE EMERGENCE OF "IUS CRIMINALE" FROM "IUS CIVILE" AND "IUS CANONICUM":
PATHWAYS AND PERSPECTIVES IN MEDIEVAL AND EARLY MODERN EUROPE**

ERICE-SICILY: 4-8 NOVEMBER 2015

Director of the Course
Giovanni Chiodi (Università di Milano-Bicocca)

Sponsored by the: The Italian Ministry of Education, University and Research – Sicilian Regional Government – University of Catania – University of Milano-Bicocca – Fondazione Cassa di Risparmio di Imola – Fondazione CEUR, Bologna

Lecturers and topics

A cinquanta anni dalla scomparsa di Francesco Calasso. Nel ricordo di Piero Fiorelli, Ennio Cortese, Manlio Bellomo
M. BELLOMO, Università di Catania, IT

La tortura nel dibattito moderno: il contributo di Antonio Gómez
G. CHIODI, Università di Milano-Bicocca, IT

Legitimate Self-defence in Medieval Theory and Practice: the European "Ius Commune" and English Common Law Compared
P.D. CLARKE, University of Southampton, UK

Sulle origini medievali del delitto di religione come delitto politico: il caso del "Regnum Siciliae"
O. CONDORELLI, Università di Catania, IT

"Fides haereticis non servanda"? Crimes Against Faith and Confidence (16-17th c.)
W. DECOCK, KU Leuven, BE

Il sistema delle prove legali nelle pratiche criminali dell'età moderna tra "ius civile" e "ius canonicum"
L. GARLATI, Università di Milano-Bicocca, IT

L'émergence des particularités de la procédure pénale
Y. MAUSEN, Université de Fribourg, CH

Crimini e prove nella decisionistica napoletana di antico regime
M.N. MILETTI, Università di Foggia, IT

Responsabilidad penal individual y colectiva en la familia medieval y moderna
E. MONTANOS FERRÍN, Universidad de La Coruña, ES

Esecuzioni capitali a Bologna dal medioevo al sec. XVI
A. PADOVANI, Università di Bologna, IT

Il diritto criminale tedesco: una prospettiva storiografica
H. SCHLOSSER, Universität Augsburg, DE

Purpose

The Course is centered on the emergence of the categories and principles of the *ius criminale* (as understood in its two dimensions: substantive and procedural) in the *ius civile* and the *ius canonicum*. The chronological boundaries of the Course will be medieval and modern Europe in the context of the system of the *ius commune*. The scholars called to give lectures in the Course have been asked to base their presentations on the edited and unedited sources, while emphasizing specific significant trends in the history of law and the history of criminal procedure. The lectures will draw upon the works of the medieval jurists and from the great tradition of modern criminal scholarship, as well as from other sources. In their examination of substantive penal law, the jurists created broad and narrow principles to define intentionality, negligence, circumstantial evidence, and proportional penalties. In terms of procedure, they constructed the *ordo iudiciarius*, accusatorial and inquisitorial modes of proof, and divided judicial procedure into its component parts, from the beginning of the process

until the final judgment. They analyzed the various modes of proof and carefully weighed their validity. They discussed the evidence required to torture and the limitations placed on torture. The jurists also examined the problems raised by the rules of procedure for a mode of proof *extra ordinem*, that was employed for *crimina excepta*. They established the assumptions and limits that governed the use of that procedure.

The principles of the *ius criminale* that the jurists had formulated circulated throughout Europe and beyond, even if in altered forms depending on the place and on the jurisdiction.

In the modern age the Course poses the question of ascertaining the role of the *ius commune* in the decisions of magistrates of the central courts. In these courts magistrates encountered the forms and principles of the *ius criminale* that is a guide and a limitation on their judgment (*arbitrium*), even if the rules of procedure left them ample room to function and maneuver.

Persons wishing to attend the School are requested to write to:

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