Preface

This book is the result of the meeting – and the ensuing friendship – between Ted Eisenberg and myself. Our meeting took place several years ago, in Turin, at the IEL program in Comparative Analysis of Institutions, Economics and Law, which I had (and still have) the privilege to chair, and with which Ted enthusiastically cooperated for many years.

It has always been a great source of pride and honor to me that, in his CV, Ted listed his IEL affiliation second, directly after Cornell Law School. I never believed, even for a moment, that this was mere flattery, because it was matched by his tireless dedication to the program, from both an educational and research point of view. Many students were fascinated by his courses on empirical legal studies, and subsequently gravitated toward empirical analysis in their doctoral research. Even I, despite coming from the theoretical side of economics, was somehow ‘infected’ by his contagious enthusiasm for empirical studies on legal institutions, to the point that these now represent a consistent part of the current research I am conducting with other colleagues. In fact, Ted and I had in progress a number of joint projects on the empirics of the judiciary, to be done with some of ‘our’ IEL Doctors. The team is now trying to continue this work which unfortunately cannot be completed all together.

During the course of our collaboration at IEL, Ted and I also started to talk about comparative law and economics. In a sense, this book was sparked by those discussions and at some point we thought it a good idea to invite a number of colleagues, friends and former students to help us advance the scholarly debate on the topic. We were lucky that many of them accepted, and so helped make the project a reality.

Then, sadly and unexpectedly, Ted passed away and I found myself alone in finalizing the project. I tried to do this to the best of my abilities, although knowing that nothing can replace Ted, both as a person and as a co-editor.

The contributions included in this book are not intended to give a definitive answer concerning how we can define comparative law and economics. Rather, they are meant to provide stimuli for further research exploring the idea that the comparative method – even if it is not a distinct discipline in itself – offers a valuable way to enrich law and economics scholarship. Ted and I both agreed that the ‘comparative’ adjective could be seen as imparting an added sensibility to the existing discipline, rather than demarcating
an entirely new one. We envisaged ‘comparative’ as denoting an awareness that all viewpoints may be relative, applied to the study of legal institutions.

Although applying the comparative method in law and economics might, at first glance, seem to refer to the juxtaposition of different legal systems (i.e. comparing subject matters), we believed that in many circumstances it also refers to the methodological plan (i.e. comparing angles of analysis). Our convergence on this is not surprising, given that we were both already on the path to merging different research sensibilities. Ted was a legal scholar who had fallen in love with the empirical methods, while I am an economist fascinated by legal studies. Endorsing this open orientation, we tried to gather together a diverse set of contributions exploring the ways in which comparative studies in law and economics can be carried out.

The book is organized as follows: in the first section, the reader will find theoretical contributions providing food for thought on how comparative methods can be applied in law and economics. The second section then presents a series of case studies, ranging from property to intellectual property, from energy market regulation to tax, and many other legal frameworks. Although these cannot of course exhaust all the possible investigations in comparative law and economics, they do provide concrete examples of comparative investigations. Finally – covering a topic close to Ted’s heart – the third section provides some examples of how empirical methods can be applied to comparative law and economics.

For the production of this book, we are indebted to so many colleagues that I shall not even try to compile a list, because it could never be complete. However, special thanks go to the IEL students, board and faculty members, and to the scholars that accepted to contribute to our project. While this book cannot exhaust the scholarly debate, Ted and I believed that it might offer a valuable contribution for researchers.

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