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Efficiency of Justice and Economic Systems

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Abstract

The growth of an economy depends not only on economic factors, but also on institutions, the citizens' trust in them, by the sharing of values and expectations. The differences between public policies and institutions are often regarded as one of the key explanations of the wide differences in levels and growth rates of per capita across countries. Among the institutions that have the greatest impact on economic performance, the legal and judicial system plays a prominent role. Understanding how laws and regulations affect economic behaviour is fundamental in modern economies and the economy facilitates the identification of those that are, in each country system, the incentives to the litigation, the process of litigation itself and the costs, in order to verify the distributive impact of the different legal and judicial systems and what features they should have to encourage economic growth. The operation of a legal system may impact on many dimensions of development: equity, the optimal allocation of resources, and the increase in total factor productivity. Moreover, the role of the judicial system in determining its dysfunctions can affect economic growth. In fact, Italian economic growth has been and is definitely hampered by the length as well as by the civil and criminal justice processes, which reduces legal certainty and confidence, increases the risk of economic activities and therefore reduces the propensity to invest. The Italian judicial system has many efficiency and organization problems, resulting in a lack of its credibility. These are very intricate, and are the product of a mixture of features that are very difficult to isolate. The aim of this work is to assess the ways in which the administration of justice in Italy influences the choices and behaviours of the two main economic actors - households and businesses - analysing if there is any (a) symmetry in their preferences. In fact, there are many factors that determine the failure of Italian justice, and among these also the users of the justice services produce a collapse in justice system when they take legal actions only for postponing a payment or avoiding an obligation. Thus, the source of the problem and its resolution could be identified in the distorted incentives generated by all of the rules connected with the process.

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Economic growth depends on economic factors, institutions and the level of trust citizens have in institutional powers. The differences between public policies and institutions can also explain the differences in per-capita growth level between Countries. Scully (1988) demonstrates that countries with a good level of institutions, in terms of stability and per capita measurement, grow faster than those with a low level of institutions.

Economic performances are influenced by the legal and judicial system, capable of forming the rules of the game.

Every society is governed by a set of rules that operate within a framework of formal legal institutions - tangible structures and codified norms - and informal ones, such as customs, habits, informal rules, moral codes, routine etc.

Understanding how laws and regulations affect economic behaviour (choices) is fundamental in modern economies. Moreover, an economy facilitates the identification of those aspects that are, in each country system, the incentives to litigation, the process of litigation itself and the costs, in order to verify the distributive impact of the different legal and judicial systems and what features they should have in order to encourage economic growth.

The importance of the rules and their relevance for the economic growth is also widely acknowledged in academic and institutional framework, and the role of judicial systems in determining economic performance has achieved ever more consideration in recent years. This is demonstrated by the research of many international organizations (World Bank, IMF).

Numerous empirical analysis generally agree that quantitative and statistically significant effects of the "quality" of the right are the main indicators of economic performance of a country.

Indeed, a legal system can affect different dimensions of the development process. These are equity, the optimal allocation of resources, and the increase in total factor productivity. In addition, some aspects of the legal system may influence the behaviour and choices of economic actors, determining the accumulation of physical and human capital (decisions relating to investment and training). Thus, the role of the judicial system in determining its dysfunctions can affect economic growth.

It is hard to identify a structure of indicators of the quality and efficiency of justice. In this direction, the Cepej report highlights mainly the problem of the length of the processes. In fact, the excessive length of civil proceedings does not guarantee adequate protection of many contracts.

Actually, Italian economic growth has been, and still is, definitely hampered - by purely economic intrinsic factors, - by the length of the civil and criminal justice processes, as well as by the processes themselves, which reduces legal certainty and confidence, increases the risk of economic activities and therefore reduces the propensity to invest. The quality of a judicial system can be estimated in numerous expressions: the length and the quality of the judgments, the efficient use of public resources, and the opportunity of access to justice for all citizens.

Among the reasons of impediments of justice, the literature indicates the level of formality of procedures (Djankov et al., 2003), organizational structures, the method of work within the judicial offices (Zan, 2006) and the incentives of the parties engaged in service provision, especially judges and lawyers (Marchesi, 2003; Buscaglia and Dakolias, 1999).

In literature, institutional interaction (new institutional economics) starts with Williamson (1975; 2000) who believes that transaction is only a bilateral relation. Only later does he connect transaction cost theory with relational contracts and fundamental transformation. After 1980, neoclassical theory moves from the monopolistic paradigm in favour of the liberalization of public utilities. At this stage we can assist in the development of the relations between public sector activities and private ones. Unfortunately, the binomial public-private relationship does not produce the expected results. The reintroduction (Menrad, 2004; North, 2005) of new institutional economics reveals that institutions are able to explain economic transformations and performances through a comparative analysis. The active actors in this process are entrepreneurs, employees and others, excluding the legislative figures. Personal maximization and limited rationality are at the base of the movement and institutional and contractual coordination are the mechanisms of the process.

Thus, it is rather difficult to identify the factors that help justice to operate efficiently. In fact, the main problem is the lack of market benchmarks, which are able to determine the right-price of the services offered and the factors used. It is also difficult to identify good indicators of performance for the Justice Sector. In fact, the same factors are always considered both for performance indicators or inputs sector productivity. Thus, efficiency coincides with productivity, however this is not always true and is potentially dangerous. Certainly productivity and efficiency are interrelated, because both are related to the resources available to the sector, but at the same time they present very different characteristics.

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