

## **FUNZIONE ECONOMICA E STRUTTURA GIURIDICA NELL'OPERA DI TULLIO ASCARELLI**

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**Abstract.** The dialectic between the economic function and the legal structure is the major theme running diametrically through the deep scientific path of Tullio Ascarelli's thought. The interest for the constant – not always peaceful – intermingling between the fluidity of the social transformations and the rigidity of the institutions of law, constitutes the pivot of all the vast and varied issues of the Author.

'Function' and 'structure' are the terms of reference in order to understand and address other contradictions inherent the physiological composition of legal experience. History and consciousness, creativity and continuity – common expressions in the language of Ascarelli – become semantic variants of a dual reality embodying the jurist's task of to building and unifying.

A summary of the latter, which can not ignore the use of logical-cognitive valuable tools, which can not benefit from the completion of vital and historical processes, which can not use the introduction of fundamental theoretical constructions.

On the one hand, if the interpretation and the comparison provide intra-systemic and inter-systemic solutions to the student for identifying and training the norm, it is only with the overlapping specialties/generalities and the placing of *fictiones iuris* that it can implement, within any legal system, the inevitable evolution of its principles and its rules.

Preserving this dynamism means, moreover, to ensure the effective implementation of the necessary and intimate connection between *societas* and *jus*, the substantial ground and the essential support of law that can be defined as authentically living.

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