

SYMPOSIUM ON “LAW, ECONOMICS AND PUBLIC POLICIES”

LETTER FROM THE GUEST EDITORS



The empirical study of the relations between the legal apparatus and the economy may address many practical concerns, and may adopt several different methods. The analysis of public policies, in turn, offers countless possibilities for the development of applied research.

The *Symposium* on “Law, Economics and Public Policies” included in this issue of the *Review of Empirical Legal Studies* brings to light articles that offer accounts of the formation, implementation and effects of legal norms, procedures and institutions involved in economic regulation broadly conceived, covering several policy areas.

Although public policies should not be confused with the legal materials that structure them, setting law and policy apart is a difficult task, if not altogether impossible and indeed undesirable. The law is enmeshed with governmental actions and may thus have several policy-relevant functions, such as helping in the normative determination of goals to be pursued, indicating tools to be used in policy implementation, creating channels for stakeholder participation, aiding in the organization of institutional arrangements that facilitate coordination and the distribution of roles and responsibilities of actors involved in the creation, enforcement and reform policies. Therefore, not only is the law instrumental in shaping public policies but it also has a central role in the operational aspects of policy implementation.

If public policies and their particular institutional structures are legally set up and operated, it makes sense to say that the legal point of view – as much as those of economics, anthropology or political science – is one of the “lenses” through which it is possible to visualize and analyze the state and its institutional arrangements “in action”, i.e., state structures in the very course of unfurling the processes of conception, implementation and monitoring of governmental actions.

In many cases, it is even possible, from a legal standpoint, to improve public policies, that is, to enhance

their efficiency (by helping them to attain results more expeditiously, at a lesser cost and with better quality), their legitimacy (by encouraging adequate participation of stakeholders) and their effectiveness (by helping in the realization of their ultimate goals).

We believe that legal work with the above characteristics is also oriented to encourage the opening of legal analysis of economically and socially relevant issues to interdisciplinary cross-fertilization. This means that legal expertise becomes committed to widen the analytical approaches of social facts in order to build up and increase the capacity of jurists to develop critical views of different aspects of empirical reality.

Such efforts, however, challenge jurists to pursue new and underexplored research agendas. Indeed, in Brazil it is still unusual for jurists to study the implementation of public policies – much less to develop analyses of economic policies – or to critically examine in greater detail the institutional structures of such policies in light of concerns with the effectiveness of fundamental rights. In the legal field little attention is given to such policy-related issues, and whenever jurists are confronted with them, they mobilize conceptual and methodological tools that are inadequate and unfit for the purpose of facing the legal challenges arising from complex processes underlying economic development in democratic societies.

The *Symposium* offers a collection of articles forming a valuable sample of the kind of legal scholarship developed in connection with this research agenda, which is incipient in Brazil. The reader will find articles written by renowned Brazilian and foreign legal scholars, as well as by talented and promising academic researchers. All the articles characteristically engage in methodological efforts that are relatively unusual, oriented to address concrete outcomes, contradictions, dilemmas and diverse and instigating legal challenges.

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We are confident that readers will be able to find in the articles presented in the *Symposium* not only materials that may be useful for their research, but also inspiration for their own work and methodological thinking on the relations between law, economics and public policies.

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Marcus Faro de Castro (University of Brasília) and Diogo R. Coutinho (University of São Paulo), guest editors.