

HOW EXPERIMENTAL METHOD CAN ENHANCE LABOR LEGISLATION

*Introduction by Pietro Ichino
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Promoting this meeting: a daring step

- for the **groundbreaking nature** of the theme
- for the **difficulty of communication** on this subject between economists and jurists

A groundbreaking theme: experimental law

- beyond the generic labor law & economics approach
- our focus: the empirical experimentation of the effects of the rules
- a new branch of studies: **experimental law**
 - the experimental provision anticipates in a small number of cases a possible general reform
 - anticipation raises some legal issues

Labor Economists and Law Scholars: a difficult communication

- What is orthodox for one, is heretic for the other – and vice versa
- necessity of dialogue and cooperation between E-L in order to **increase pragmatism** and to **reduce ideologism** in labor policy debates

IS THIS DIALOGUE POSSIBLE
AND TO WHAT EXTENT?

Four types of experiments

As a first approximation, we can identify four cases

- the **natural/institutional experiment** (activated not for the purpose of scientific research, but useful for it)
- the **voluntary experiment** (the subject involved can decide to apply a special rule instead of the general one)
- the **scientific (or controlled) experiment in the field** (comparing a treated sample with a non-treated control sample)
- the **laboratory experiment** (simulation of reality by means of an artificial game)

EACH OF THESE POSES SOME PROBLEMS
FOR ECONOMISTS AND SOME OTHERS FOR JURISTS

The rule of higher rank requires measurement of effects of the lower

A case in which jurists need economists' help: the application of the rule of *higher* rank (e.g. constitutional) often requires the **measurement of the effects** of the rule of *lower* rank

- the *Job Centre II* case (EU Court of Justice, 12.11.1997)
- other EU cases will be discussed by M. Pallini

Qualificating a rule as a discrimination or as a positive action

- Italian bill n. 2102/2010 foresees a reduction of tax burden on women's wages, in order to increase women's employment rate
- the constitutional and EU **legitimacy of the provision depends on its real effects** on female work supply and demand
- this is why that bill foresees an experiment (entrusted to the Italian Central Bank) aimed at measuring the effects on a treated sample in comparison with a non-treated control sample

Assessing effectiveness of legal provisions and choosing the dosage

- Under what conditions can a natural or controlled experiment help to identify **the cause-effect relationship** between policies and socio-economic results?
- At stake is not only the problem about whether to apply a treatment, but also that of **the dosage**

If it is required for medical therapies why not for social policies too?

- rigorous **testing of the effect of a drug** is a necessary condition for its general adoption
- the same preliminary protocol should be considered as indispensable for the adoption of a labour market measure

A European problem: the legitimacy of territorial experiments

- in the US new state provisions and courts' orientations can be used as natural experiments
- is it permitted, and to what extent, in a European country, the experiment of **a new discipline in one province?**
 - the experiment launched by Italian Government for the measurement of effects of evaluation and incentives in the educational system

A problem for jurists: egalitarianism vs. experimentation

- is experimentation an exigency which can balance the equality principle?
- the Italian bill n. 1481/2009: an experiment on a voluntary basis of exemption from the mandatory discipline of dismissals
- is it permitted, and to what extent, the experiment of **exempting a zone or some individuals from a mandatory rule** which protects a constitutional value?

A question for economists: the results of a voluntary experiment

- is **self-selection of involved persons** totally incompatible with any significance of the experiment results?
- which conclusions can or cannot be correctly drawn from the *voluntary* experiment?

When “experiment” is a misnomer

- numerous legislative measures are classified as “experimental” just to muffle dissenting views or to mask a lack of funds
- this doesn’t mean there is any expectation of correct gathering and analysis of data
- the birth of experimental law must also **prevent the misuse** of the words “experiment” or “experimental”

A closing wish

- that this daring step of Fondazione Giuseppe Pera turns out to be courageous rather than daredevil
- a labor law culture founded on the twin pillars of **experimental method and international comparison**